The Solicitors' Journal

VOL. LXXXII. **Saturday, July 30, 1938.** No. 31

Editorial, Publishing and Advertisement Offices: 29–31, Breams Buildings, London, E.C.4. Telephone: Holborn 1853.
SUBSCRIPTIONS: Orders may be sent to any newsagent in town or country, or, if preferred, direct to the above address.
Annual Subscription: £2 12s., *post free*, payable yearly, half-yearly, or quarterly, in advance. *Single Copy:* 1s. 1d. *post free.*
CONTRIBUTIONS: Contributions are cordially invited, and must be accompanied by the name and address of the author (not necessarily for publication) and be addressed to The Editor at the above address.
ADVERTISEMENTS: Advertisements must be received not later than 1 p.m. Thursday, and be addressed to The Manager at the above address.

Current Topics.

Sir Thomas Horridge.

BY the death of Sir THOMAS GARDNER HORRIDGE, at the age of eighty, there passes one who, till his resignation rather more than a year ago, was a tower of strength on the Bench to which he was appointed in 1910, at the same time as the late Mr. Justice AVORY. Sir THOMAS was one of the few occupants of the Bench who began his legal career in what is sometimes, but quite invidiously, termed the "lower branch," though to be sure Mr. E. B. V. CHRISTIAN, himself a solicitor, gave it his sanction by christening his delightfully reminiscent book "Leaves of the Lower Branch." Called at the Middle Temple in 1884, Mr. HORRIDGE, as he then was, soon obtained a fair, and ultimately a large, practice on the Northern Circuit, which in 1901 justified him in applying for, and obtaining, silk. He achieved, furthermore, political success by defeating no less doughty an opponent than Mr. ARTHUR BALFOUR, and this circumstance had satisfactory reactions in the legal sphere which led to his appointment to the Bench, where his intimate knowledge of commercial law proved a valuable asset. Occasionally, it is true, there was perceptible a slight acerbity of manner, which perhaps was due to the deafness which became painfully marked for some time before his resignation. Among his many notable decisions, mention may be made of *Phillips* v. *Brooks, Ltd.* [1919] 2 K.B. 243, which laid it down that if A, fraudulently assuming the name of a person of credit and stability, buys, in person, and obtains delivery of, goods from B, the property in the goods passes to A, who can therefore give a good title to the goods to a third party, who, acting *bonâ fide* and without notice, has given value for it. This excluded the applicability of the proposition of POTHIER that "whenever the consideration of the person with whom I am willing to contract enters as an element into the contract which I am willing to make, error with regard to the person destroys my consent and consequently annuls the contract." Mr. Justice HORRIDGE rejected this on the ground that in the case before him the seller intended to contract with the person actually present. Commenting on the decision, Mr. FIFOOT, in his admirable work on "English Law and its Background," says it is interesting to speculate upon the course of judicial ingenuity had the negotiation been conducted by telephone.

The Law's Delays.

"THE absence at the present moment of ten of the judges of the Queen's Bench Division at the assizes, leaving only five in town, and only three available for the trial of actions, again draws attention to the necessity of a drastic reform in our Circuit system. It is satisfactory to know that the question is under the consideration of the judges. . . . That our costly legal machinery should be thrown out of gear at the beginning of the Hilary, Easter, Trinity and Michaelmas Sittings is nothing short of a national scandal. . . ." So ran a leading article in *The Times* in 1887. An article which appeared in the same journal during the present week comments upon the arrears which have accumulated in the King's Bench Division on the eve of the Long Vacation. This is due partly to the number of judges who have been engaged on circuit, leaving only three to five of the King's Bench judges in London during the last few weeks, and partly to time occupied in trying two lengthy actions. The article recalls that the need for a business manager at the Law Courts has often been suggested, and it is stated that certainly those who have watched the progress of cases recently might be excused for thinking that the time for such an appointment had come, particularly with regard to work in the King's Bench Division. A tradesman whose organisation is unable to meet the demand for his goods must, it is urged, expand it if he is to satisfy his customers. Should not the same principle be applied to the law? We think that such comparisons are to be deprecated. It is the function of the courts to administer justice, not to purvey it. The common bond between trade and the law, while capable of being covered by the same term and viewed in the light of the same considerations, such as the need for efficiency, is in reality one of manner rather than matter, and analogies having exclusive reference to the former may be more misleading than enlightening. The function of a business manager—disguise the matter how one will—would be to set the judges their tasks, and it is difficult to see how such a system could be introduced without some detriment to the prestige of the Bench which is the corner-stone of the English judicial system. We are fully sensible of the hardship occasioned to litigants—and not to litigants only—by long periods intervening between the setting of an action for trial and the hearing. But these delays may be the result of a

combination of circumstances which would outwit the resourcefulness of a business manager, however acute. Recent years have witnessed the introduction of a number of measures designed to render the legal machine more readily responsive to the needs of the community. These measures have been selected from a large number of suggestions incontestibly put forward with the same object but, for various reasons, not adopted. The appointment of a business manager at the Law Courts was one of the suggestions which has not hitherto been carried out. We do not regret it.

Chairmen of Quarter Sessions.

LAST Friday week an amendment to the Administration of Justice (Miscellaneous Provisions) Bill (which was being considered on Report), to render the appointment of legally qualified chairmen and deputy-chairmen of quarter sessions compulsory, was rejected by the comparatively small majority of 103 votes to 83. The amendment was to the effect that within six months after the measure had come into operation and thereafter within three months after a vacancy had occurred the court of quarter sessions of a county should apply to the Lord Chancellor for the appointment of a legally qualified person as chairman or deputy-chairman. MR. SILVERMAN, who moved the amendment, urged that the opinion of everyone who had considered the matter was that there ought to be legally qualified chairmen of all quarter sessions. As the clause stood it left the matter optional, and that would mean that there would be, side by side, two different standards in the administration of justice. There was nothing in the Bill to end this absurd double system, yet there were no practical difficulties in the way. The Attorney-General appealed to the House not to pass the amendment, though he hoped to see the day when all quarter sessions would have fully qualified chairmen and the same jurisdiction conferred on them all. But he expressed his belief that the voluntary powers contained in the Bill would bring about that result in the minimum period of time. Earlier in the debate the Attorney-General had said that he could give an assurance that the progress made in obtaining legally qualified chairmen would be kept constantly under review by the Lord Chancellor, and if counties failed without reasonable cause to obtain such chairmen the Lord Chancellor would consider asking Parliament for further powers. It may be remembered that in its present form the measure provides that "it shall be lawful for His Majesty from time to time on the recommendation of the Lord Chancellor, made at the instance of the court of quarter sessions for any county, to appoint a legally qualified person" as chairman or deputy-chairman. At present legally qualified persons occupying that position out-number those not so qualified by more than three to one, and with the assurances to which reference has already been made, it may be thought that the provisions of the Bill will be sufficient to achieve the desired end without recourse to compulsory measures.

The Nationality of Married Women.

A QUESTION of considerable interest and difficulty was considered in the House of Lords on Monday when LORD ALNESS moved the second reading of the British Nationality and Status of Aliens Bill. The principal purpose of the Bill was, it was said, to restore to a British married woman the right to retain her nationality on marriage with an alien and the corresponding right of an alien woman on marriage to a British subject. The speaker used the term "restore" advisedly, because, he said, up to comparatively recently, the marriage of an alien woman to a British subject or of a British woman to an alien left the nationality of both entirely unaffected. It was not until 1844 that an alien woman, on marrying a British subject, became herself a British subject, and it was not until 1870 that a British woman, for the first time in British history, lost her British nationality on marrying an alien and herself became an alien. LORD ALNESS said that he was speaking on behalf of some forty women's societies in the United Kingdom and of 120 women's societies in the Dominions, and that the Bill also had the support of the International Council of Women, representing thirty-one nations. Moreover, states representing half the territory of the world had allowed women who married foreigners to retain their nationality status. It was said that the chief objection to the Bill was based upon uniformity of nationality within the British Empire. It was arguable, however, that uniformity of nationality no longer existed throughout the Empire, and to say that the reform proposed must await the consent of the Dominions was anomalous and worse. The EARL OF MUNSTER, Paymaster-General, intimated that the Government could not see their way to support the Bill or to give facilities for its passage. The question had come before successive Imperial Conferences, and so far it had not been possible to secure agreement on proposals to amend the law so as to give women a position closely approximating to that of men. It was indicated that the Government attached the highest importance to the fact that there must be uniform legislation throughout the Empire with regard to the acquisition and loss of status of a British subject, and the motion for the second reading of the Bill was withdrawn.

Motoring Offences: Penalties.

THE problem of securing throughout the country some measure of equality in the punishment meted out to persons found guilty of motoring offences has been referred to in these columns on previous occasions, and readers will remember that not long ago the subject was dealt with in a Home Office circular. We desire emphatically to disclaim any intention of commenting on the manner in which magistrates throughout the country discharge their onerous duties, but in view of the importance of the matter and of the attention customarily given in these columns to the legal aspects of the problem of road safety, we propose briefly to indicate the nature of the evidence recently tendered by Sir EDWARD MARLEY SAMSON, K.C., stipendiary magistrate for Swansea and chairman of the Magistrates' Association, to the House of Lords Select Committee on the Prevention of Roads Accidents in connection with this subject. Sir EDWARD quoted figures—described by LORD ALNESS, chairman of the committee, as arresting in character—to illustrate disparity of treatment in the use by magistrates in different localities of their powers of endorsement and suspension of licences for motoring offences, and stated that he was perfectly certain that a more liberal use of these powers would have a useful effect. In reply to a question by LORD ALNESS whether in the course of his long experience the speaker had formed any opinion as to the reasons which animated the minds of the courts of summary jurisdiction in failing to exercise these powers of endorsement and suspension, Sir EDWARD said he was at a loss to understand it. That was the reason why the Magistrates' Association suggested that magistrates should state in open court the special reasons why their powers under the Road Traffic Acts were not enforced, and that this should be made a statutory obligation with a view ultimately to securing greater uniformity in this direction. In the speaker's opinion these powers were not exercised as fully as they ought to be. Allusion was also made to the reluctance of juries to return a verdict of manslaughter on a charge arising out of a fatal motor accident, and it was suggested that there should not only be the present alternative verdict of "dangerous driving," but also a new verdict of "driving without due care." If that were the case the speaker expressed himself as satisfied that many persons who now went free altogether would be convicted and punished. Evidence on behalf of the Magistrates' Association was also given by LORD MERTHYR, who said that from his personal experience he had been very much struck by the present difficulty of proving convictions in the absence of a defendant. More severe penalties should be imposed for second and subsequent offences, but there was great difficulty in assessing the proper punishment if the defendant did not

appear. It had become known to motorists—and the speaker had no doubt that they were so advised—that if they had a previous conviction they might benefit from absenting themselves from the court, and the present process of proving convictions in those circumstances was too lengthy and expensive.

Solicitors' Account Rules: "Liability."

In a matter which recently came before the Disciplinary Committee of The Law Society, it was contended that moneys in a client account could be drawn out and paid into an office account because a solicitor was entitled to treat undefined and unascertained costs as a "liability" under r. 4 of the Solicitors' Account Rules, 1935. The committee negatived this contention and intimated that the word "liability" in that rule meant an ascertained liability which could be enforced. If, it was said, it were left to a solicitor to elect what that liability might be at any time, such a practice might be capable of considerable abuse. A solicitor, who admitted the facts alleged against him but had considered himself entitled to draw on the client account in respect of unrendered costs, provided that the amount drawn against any client did not exceed the amount for the time being held on behalf of that client, and that in making such withdrawals he had been careful to keep well within the estimates of costs from time to time due, was, therefore, found guilty of professional misconduct in respect of breaches of the Solicitors' Account Rules, 1935. The committee conceded, however, that the respondent might have acted under a misapprehension of what, in the committee's opinion, was the true meaning of the rule. There was no evidence that any client had suffered any pecuniary loss. The amounts drawn from the client account were small, and on the advice of his accountant the respondent had discontinued his former practice. In these circumstances the committee considered that justice would be met by ordering that the solicitor pay the costs of and incidental to the application and inquiry.

Applications for Practising Certificates.

The council of The Law Society draws attention to the fact that in the cases referred to in s. 38 of the Solicitors Act, 1932, s. 3 of the Solicitors Act, 1933, and s. 11 of the Solicitors Act, 1936, where the registrar of solicitors has discretion to refuse an application for the issue of a practising certificate, at least six weeks' notice of such an application must be given, unless the registrar or the Master of the Rolls orders otherwise. According to *The Law Society's Gazette*, to which we desire to express our indebtedness for the information contained in this paragraph, several applications under these sections for the issue of certificates have recently been made upon short notice when no special reasons for urgency have been disclosed. The council, as registrar of solicitors, desires to point out to members that it will not be prepared to order the issue of a practising certificate upon less than the six weeks' notice unless the applicant shows that a certificate is urgently required, and that there are good and sufficient reasons for having failed to give the full notice of intention to apply.

New Legislation.

July 27th, 1938, is the prescribed date for the coming into operation of the Trade Marks Act, 1938 (S.R. & O. 1938, No. 657). The new Act repeals the Acts of 1905, 1919 and 1937, and consolidates the law. At the same time it gives statutory authority to a number of changes necessitated by modern conditions. Perhaps the most generally important of these is s. 29, whereby a trade mark can now be registered in favour of a company about to be formed. The Trade Marks Rules, 1938 (S.R. & O., 1938, No. 661), which come into force on the same day, repeal the Rules of 1920 and 1925 and correspondingly consolidate the procedure. They include a new set of fees, a complete series of forms, and a new classification of goods.

Recent Decisions.

In *Harland* v. *Empire Cotton Growing Corporation* (*The Times*, 23rd July), which was heard before Hawke, J., and a special jury, the plaintiff recovered £1,479 11s. damages for wrongful dismissal. £159 11s. was the amount found due in respect of the plaintiff's rights under an insurance scheme, and £1,320 represented the difference between the agreed amount of the damage suffered by the plaintiff in respect of loss of salary and other benefits under his contract and the amount of credit to be allowed for actual and prospective earnings in other employment since his dismissal.

In *Kawaski Kisen Kabushiki Kaisha* v. *Bantham Steamship Co., Ltd.* (p. 623 of this issue), the Court of Appeal (Greer, Slesser and MacKinnon, L.JJ.) upheld a decision of Branson, J., 82 Sol. J. 215, to the effect that there was an implied obligation on shipowners to inform the charterers of the deadweight capacity of the ship—a fact within their knowledge and not that of the charterers—to enable the charterers to pay the hire (the amount of which was to be paid with reference to the tonnage), and that the owners were not justified in withdrawing the ship on the ground of non-payment of hire prior to the furnishing of such information.

In *Poliakoff* v. *News Chronicle Ltd.* (*The Times*, 23rd July), heard before Lord Hewart, C.J., and a special jury, the plaintiff's claim for damages for alleged libel contained in a statement to the effect that he had sold to Hitler a newspaper of which he had been the proprietor, and which had been published in Paris in the interests of anti-Nazi refugees in France failed. The statement was derived from that newspaper and the plaintiff's solicitors had not written to the defendants until more than a year after the publication complained of. The plaintiff had recovered damages against his editor in France and had accepted £400 in settlement of an action against *The Jewish Chronicle* for a similar statement. It was said that the plaintiff had been amply vindicated.

In *Perry* v. *Croydon Borough Council* (p. 623 of this issue) the Court of Appeal allowed an interlocutory appeal from an order of Macnaghten, J., in Chambers, staying proceedings in the case until the trial of an action brought by Mr. Alfred Read against the council, which a large number of plaintiffs had agreed should be a "test" action in respect of claims arising from the outbreak of typhoid at Croydon. The question whether the council were liable on an alleged breach of contract did not arise in the present case, as in the test action, and, since the issues were not identical, the Court of Appeal intimated that the learned judge was not entitled to make the order which he did.

In *Starkey, A. M.* v. *Starkey, R. B.* (*The Times*, 26th July), an undefended suit, Hodson, J., granted the petitioner a decree *nisi* of dissolution of marriage on the ground that her husband had deserted her without cause for at least three years preceding the presentation of the petition (Matrimonial Causes Act, 1938, s. 2). The parties had entered into a deed of separation in 1932, but no payment by the husband had ever been made under it and, the learned judge said, he appeared to have treated it—if ever it was an agreement at all—as a nullity from the start. In these circumstances it was held that the desertion continued notwithstanding the deed.

In *Watson* v. *Binet* (*The Times*, 26th July), Bennett, J., held that the plaintiff who had supplied to the defendant four sums of money amounting to £245 4s. had not discharged the onus which lay upon her of proving that she had paid the moneys for the specific purpose of their being used for the purchase of automatic amusement machines on her behalf, or that she ever believed that the machines in question were her machines. An action to recover possession of the machines and a share of the takings and damages for alleged conversion therefore failed.

Trusts for the Representatives of a Living Person.

By A. H. WITHERS, Barrister-at-Law.

It is definitely stated in "Norton on Deeds"(*a*) that a limitation or trust of personalty in favour of the executors of a living person vests the property absolutely in him.

So far as the writer is aware, no similar statement is to be found in any other text book or in any reported case. Evidently there is no definite rule of law or construction on the point, and the statement in "Norton" amounts merely to a deduction, made by very distinguished lawyers, from reported decisions. It seems therefore worth while to summarise the cases by which the statement in "Norton," which in fact appears to apply to wills as well as to deeds, is supported.

Before dealing with the cases which support "Norton's" statement, it may be as well to point out that nothing turns on the precise term by which the executor or representative is described. Thus it makes no difference that the gift or trust is in favour of "executors" or "executors and executrix" or "executors and executrices" or "executors and administrators" or "administrators"(*b*) or is in favour of "representatives" with or without the words "legal" and "personal"(*c*) provided, of course, that there is no context showing that "representatives" means "next of kin"(*d*) or that the personal representatives are to take beneficially.(*e*)

1. *Gifts or trusts substitutional in form.*

"Where there is a bequest to A for life and after his decease to B or his executors" or to B "or his personal representatives," or a bequest to "B to be paid so many months after the testator's decease to him 'or to his personal representatives,' it is simply another way of giving a vested interest to B upon the testator's own death, and if B dies before the testator, the bequest shall lapse."(*f*)

Consequently B, on surviving the testator takes a vested interest in reversion, expectant on A's death or the expiration of the period, and can assign such interest by deed.(*g*)

In such cases, the trust for the representatives appears to have no special effect and seems to be treated merely as an expression of intention that the trust shall not fail by reason of B's death before the date for payment.(*h*) But in *Re Seymour's Trusts*(*i*), V.-C. Page-Wood treated the trust as giving B a power of disposition during his lifetime.

2. *Gifts or Trusts for the representatives of a person taking a life interest.*

It has been held that there is an absolute gift to A where a fund is settled on A for life and then—

(1) For his legal personal representative(*j*); or

(2) For his personal representatives(*k*); or

(3) Upon trust for his executors or administrators as part of his personal estate(*l*); or

(4) To be transferred to his personal representatives(*m*); or

(5) On such trusts as A by will appoints and in default of appointment for his executors or administrators.(*n*)

This is so although—

(1) A's life interest is determinable, and the reversionary gift is dependent on the life interest not having determined.(*l*)

(2) The gift to the executors or administrators was to operate whether or not A survived the testator.(*o*)

In *Holloway* v. *Clarkson*(*p*) Vice-Chancellor Wigram said:—

"In deciding this question, the Court must lay wholly out of consideration the circumstance that a life interest is given, in the first instance, to the party to whose representatives the corpus is afterwards given. There is no analogy between real and personal estate in this particular . . . In the case of real estate the estate for life of A, preceding mesne limitations, and followed by a remainder to the heirs of A, amount to a fee; but the principle does not extend to give by analogy an absolute interest in personal estate to a married woman on a limitation to her for life, with remainder to her executors, administrators and assigns. The mere fact of taking a life estate in personal property has not the effect of enlarging the operation of the gift in remainder to the same person."

If the fact that A had a life interest was immaterial in the cases above quoted, they are all direct authorities in favour of the proposition that a mere trust for the personal representatives of A is a trust for him. There is no suggestion in any of the cases above referred to that the construction would have been different if A had not a prior life interest. But there is authority for the proposition that a limitation to the executors and administrators of a person who has a life interest in the fund has to be treated as words of limitation and the same as a limitation to the right heirs as to real estate.(*q*)

3. *Mere gifts to, or trusts for, the executors of A (a living person) —the same not being substitutional in form nor following on a life interest to A.*

The point appears to have been directly dealt with in one case only, namely, *Mackenzie* v. *Mackenzie*(*r*), where A, by deed, settled policies on his life upon trust for B for her life, then in trust for A's appointees, and subject thereto for A's children. A, by deed, appointed to his own "executors and administrators" and became bankrupt in B's lifetime and died leaving children. The assignees in A's bankruptcy were held, by Lord Truro, to be entitled to the interest appointed to the executors and administrators of A.

From the judgment in the case of *Mackenzie* v. *Mackenzie*(*r*), and from those in the cases of *Holloway* v. *Clarkson*(*s*) and *Webb* v. *Sadler*(*t*), in each of which A had a prior life interest, it seems clear that A has power in his lifetime to dispose of the interest limited to his executors and thus in effect owns such interest.

Mackenzie v. *Mackenzie*(*r*) is given by Lord St. Leonards as the authority for his statement(*u*) that "an appointment under a power by the donee by act *inter vivos* to his own executors and administrators of course vests the whole disposable interest in himself." The same case is in "Farwell on Powers," given as the authority for the statement(*v*) that "an appointment by deed by the donee of a general power over a fund to his own executors and administrators gives the absolute interest to himself."

Presumably the decision in *Mackenzie* v. *Mackenzie*(*r*) would have been the same had the appointment been made under a special power or had been made by deed or will to the executors and administrators of some person other than the donee of the power.

(*a*) The statement first appeared in Elphinstone Norton & Clark's "Rules for the Interpretation of Deeds" (published in 1885), r. 124, on p. 312. It is repeated in "Norton on Deeds," in the first edition, at p. 405, and in the second edition at p. 449.

(*b*) *Trethewy* v. *Helyar* (1876), 4 Ch. D. 53, at p. 55, where Jessel, M.R., was referring to gifts to the personal representatives of a deceased person.

(*c*) *Re Crawford's Trusts* (1854), 2 Dr. 230, at pp. 234–5; *King* v. *Cleareland* (1859), 4 De G. & J. 477, at p. 484; *In re Ware* (1890), 45 Ch. D. 269, *In re Brooks* [1928] Ch. 214.

(*d*) See "Jarman on Wills," 7th ed., p. 1588 *et seq.*, and "Theobald on Wills," 8th ed., p. 381 *et seq.*

(*e*) It wants a very strong context to let the personal representatives take beneficially. See "Norton on Deeds," 2nd ed., p. 451 *et seq.*, "Jarman on Wills," pp. 1594-5 and "Williams on Executors," 12th ed., p. 734.

(*f*) *Per* Page-Wood, V.-C., in *Re Porter's Trust* (1857), 4 K. & J. 188, at pp. 197–8.

(*g*) *Corbyn* v. *French* (1799), 4 Ves. 418, at p. 435; *Price* v. *Strange* (1820), 6 Madd. 159; *Re Seymour's Trusts* (1859), John. 471; and *In re Ware* (1890), 45 Ch. D. 269, at p. 279.

(*h*) See *Corbyn* v. *French* (1799), 4 Ves. Junr. 419, at p. 435, and "Roper on Legacies," 4th ed., p. 468.

(*i*) (1859), John. 472, at pp. 478–9.

(*j*) *Webb* v. *Sadler* (1873), L.R. 8 Ch. App. 419, at p. 429.

(*k*) *In re Brooks* [1928] Ch. 214.

(*l*) *Webb* v. *Sadler* (*supra*)—where the trust was declared by deed. The words "as part of his personal estate" were treated (see p. 429) as meaning merely that "executors or administrators" were not next of kin and did not take beneficially as *personæ designatæ*.

(*m*) *Alger* v. *Parrott* (1866), L.R. 3 Eq. 328.

(*n*) *Devall* v. *Dickens* (1845), 9 Jur. 550, and *Page* v. *Soper* (1853), 11 Hare 321.

(*o*) *In re Brooks* [1928] Ch. 214.
(*p*) (1843), 2 Hare 521, at p. 525. Here the trust was for A for life, then as she should by deed or will appoint, and in default of appointment in trust for her executors, administrators and assigns as part of her personal estate.
(*q*) *Anderson* v. *Dawson* (1808), 15 Ves. 532, at p. 536, and *Stockdale* v. *Nicholson* (1867), L.R. 4 Eq. 359, at p. 365. See also "Jarman on Wills," 7th ed., p. 1590, and "Williams on Personal Property," 18th ed., pp. 448–9.
(*r*) (1851), 3 Mac. & G. 559.
(*s*) (1843), 2 Hare 521, at p. 525, quoted with approval by V.-C. Page-Wood, *In re Seymour's Trusts* (1859), John. 472, at p. 479.
(*t*) (1873), L.R. 8 Ch. App. 419.
(*u*) "Sugden on Powers," 8th ed., p. 460.
(*v*) First edition, p. 193, 2nd ed., p. 243, and 3rd ed., p. 274. A similar statement appears in the Laws of England, 1st ed., vol. 23, at p. 39, and 2nd ed., vol. 25, at p. 557.

Company Law and Practice.

Debentures and Mortgages by a Company.

A REPORT has appeared of the case of *Knightsbridge Estates Trust Limited* v. *Byrne*, 159 L.T. 55, which was before Luxmoore, J., on several days earlier in this year. A number of important points were raised in the course of the argument and dealt with by the learned judge in the course of his judgment. These points were not all, however, of consequence to company lawyers, and I shall only refer to some of them in this article in so far as it becomes necessary to do so in order to appreciate other points of more immediate interest. The facts were shortly as follows. The plaintiff was a limited company which had by a deed of mortgage made in consideration of an advance of £310,000 by the defendants covenanted to repay this sum with interest by instalments spread over a period of forty years. The company by the same deed demised certain freehold property to the defendants for long terms subject to the usual proviso for redemption on payment of the principal and interest secured by the deed. One of the events upon the happening of which the defendants were to become entitled to exercise the powers and remedies conferred upon mortgagees by the Law of Property Act, 1925, was a sale by the company of the equity of redemption in the mortgaged premises without the consent of the defendants. Such being the facts, about which there was no dispute, the company brought an action in which it sought a declaration that, notwithstanding the provision for repayment by instalments, it was entitled after the expiration of six months' notice to redeem the mortgaged premises upon payment to the defendants of the principal money secured by the mortgage deed with interest down to the date of repayment and the usual mortgagee's costs. The first question which the learned judge had to consider is not one over which we need linger here. It was a question of construction—whether the company was entitled to give the defendants six months' notice of its intention to pay off the principal sum remaining due on the security of the mortgage with interest. On this point Luxmoore, J., held that the bargain between the parties was to make repayment over a period of forty years, and that the company was not entitled to pay off the debt on six months' notice. This being so, a number of other points arose which were summarised in the judgment in these terms: (*a*) is the provision in the mortgage deed postponing the right of redemption thereunder for a period of forty years void as infringing the rule against perpetuities? (*b*) if the answer to the last question is in the negative, are the provisions of the mortgage deed so unreasonable as to constitute a clog on the equity of redemption and thus entitle the plaintiff company to redeem the mortgaged premises notwithstanding the provisions of the mortgage deed? and (*c*) is the mortgage deed a debenture within the meaning of s. 74 of the Companies Act, 1929, and, if it is, what is the effect of these provisions with regard to the preceding question?

It will be apparent that it is the last question with which we are most concerned, but those parts of the judgment which deal with the preliminary questions are no less worthy of careful scrutiny. After a very interesting review of the authorities and of the principles to be applied, the learned judge held that the rule against perpetuities does not affect mortgagees. Further, he held that the period during which the company was precluded from redeeming, when considered in conjunction with the other provisions of the mortgage deed, was so unreasonable that in the case of a mortgage between individuals it would constitute a clog on the equity of redemption. We then come to the point on the Companies Act, which can be stated shortly in this way: The Companies Act provides that a company can issue perpetual debentures, and, if therefore it can be said that this mortgage deed is a debenture within the meaning of the Act, the objection that there is a clog on the equity of redemption falls to the ground. The provisions restricting redemption would be valid and the deed would belong to the class of perpetual debentures.

The first question, therefore, is whether a mortgage deed in the form of the deed under consideration in this case falls within the definition of a debenture given in the Companies Act, 1929. Section 380 (1) of the Act defines debentures as follows:—

> "Debenture includes debenture stock, bonds and any other securities of a company whether constituting a charge on the assets of the company or not."

This definition did not appear to the learned judge to be intended to be exhaustive. Apart from it, no precise definition of the word "debenture" is to be found in the books and the term has been applied to documents of varying forms. See, for instance, *British India Steam Navigation Company* v. *Inland Revenue Commissioners*, 7 Q.B.D. 165, per Grove, J., at 168, 169 and 172. It is not of the essence of a debenture that it should contain a charge on property, for its suffices that it should create or acknowledge a debt and it is a debenture for the purposes of stamp duty, even if it provides no security beyond the acknowledgment of the debt and the promise to pay. Very frequently a debenture which contains a charge, whether fixed or floating, is called a mortgage debenture. "Speaking generally," said Luxmoore, J., "the term debenture in the commercial world is used to describe a document securing or acknowledging the payment of money issued by a company," but to this it must be added that the term is not confined to documents issued by companies, though in practice the great majority of such documents will be found to have been issued by companies. Further, it is, of course, well known that a debenture does not always consist of one document alone. If the term is such a wide one, where has the line to be drawn? A mortgage of freeholds, such as was under consideration in *Knightsbridge Estates Trust Limited* v. *Byrne*, *supra*, can accurately be described as a "security of the company"—the words used in the Act—and at first sight it might appear that such a mortgage would be subject to the statutory provisions about debentures contained in the Act. This would, however, produce the very strange result that, inasmuch as the term debenture is not confined to documents executed by companies, an ordinary mortgage of freeholds could properly—though not without causing confusion and misunderstanding—be described as a debenture. Luxmoore, J., came to the conclusion that a mortgage of freeholds by a company is not a debenture within the meaning of the definition in the Companies Act cited above. To arrive at a conclusion on this point, the learned judge found it necessary to consider the Act itself and the circumstances under which s. 74 and the definition came into being, but before I quote from his judgment on this point it will be more convenient to set out s. 74. This is the section which enables a company to issue irredeemable debentures, and it reads as follows:—

> "A condition contained in any debentures or in any deed for securing any debentures, whether issued or executed before or after the commencement of this Act, shall not be invalid by reason only that the debentures are thereby made irredeemable or redeemable only on the happening

of a contingency, however remote, or on the expiration of a period, however long, any rule of equity to the contrary notwithstanding."

The subject-matter of this section first appeared in the Companies Act, 1907. Doubts had arisen as to the validity of debentures issued on terms which, in an ordinary mortgage, would constitute a clog on the equity of redemption. Section 14 of the Act of 1907 provided that "for removing doubts" it was declared, etc., in substantially the same words as s. 74 of the Act of 1929. The section was retrospective and was included under the general heading of Mortgages and Charges. Luxmoore, J., noted that "there was no doubt at the date when the 1907 Act was passed that an ordinary mortgage of freehold property was within the mischief of the rule of equity with regard to the postponement of the period of redemption for an unreasonable time." Yet s. 14 made no mention of mortgages or charges, but was content to refer to debentures. In these circumstances the learned judge found himself unable to hold that the words mortgages, charges and debentures, when used in the Act of 1907, were intended to be interchangeable. He found support for this view in another section of the same Act which referred to a "mortgage or charge . . . being either a mortgage or charge for the purpose of securing any issue of debentures," and, again, in the provisions for the re-issue of debentures, which are clearly inapplicable to ordinary mortgages of freeholds. The later legislation has not altered the position. There is nothing in the Act of 1908 which suggests that that Act has departed from the terminology of the Act of the preceding year. The only definition of a debenture is that it includes debenture stock. The Act of 1929 similarly cannot be held to have made any change in this respect and it still uses the words mortgages, charges and debentures to mean different things. The difficulty arises in connection with the definition of debentures, which is set out above, and was first introduced by this Act, but here the learned judge reminds us that the definition only applies unless the context otherwise requires. He concludes his judgment with these words, the cogency of which needs no emphasising here: "To hold otherwise would, I think, result in the conclusion that although the Companies Act, 1929, is a consolidating statute and must be construed ordinarily so as to exclude any amendment of the existing law, it has in fact effected an amendment by the extension of the definition of debenture in" the definition section at the end of the Act. In the result it was held that s. 74 did not apply to the mortgage under consideration so as to exclude the operation of the equitable doctrine of the clog on the equity of redemption, and, accordingly, as the postponement of the right to redeem was, in the circumstances, unreasonable, it was not valid, and the company was entitled to redeem on payment of all principal and interest due and costs.

A Conveyancer's Diary.

The Perpetuity Rule again. Alternative Gifts on Separate Events.

A VERY interesting question of construction was raised in the recent case of *Re Curryer's Will Trusts* [1938] W.N. 282; 82 SOL. J. 625.

By his will dated in 1898 a testator, who died in 1903, provided (*inter alia*) " . . . on the decease of my last surviving child or on the death of the last surviving widow or widower of my children as the case may be whichever shall last happen I direct my trustees to stand possessed of the trust fund . . . in trust for my grandchild or grandchildren living at the period of distribution and the issue then living of my grandchild or grandchildren dying before that period such grandchild or grandchildren taking as tenants in common and the issue of any grandchild or grandchildren taking their parents' share as tenants in common the shares of grandchildren or other issue being males to be paid at the age of twenty-one or being females at that age or marriage."

The summons was taken out to determine whether the gift to take effect "on the decease of my last surviving child or on the death of the last surviving widow or widower of my children as the case may be whichever shall last happen" was void as infringing the rule against perpetuities, or whether the validity of the bequest depended upon which event should happen, namely, whether the last survivor of the testator's children and their widows or widowers should be a child or a widow or widower.

Now, it is clear that if the gift had been made to take effect upon the decease of the last surviving child of the testator, the gift would not have infringed the rule against perpetuities and would have been valid: but a gift to take effect upon the decease of the last surviving widow or widower of the testator's children would be void as such widow or widower might not be in being at the testator's death.

In a rather complicated case, *Miles* v. *Harford* (1879), 12 Ch. D. 691, the general rule with regard to construction of gifts of this kind was laid down by Sir George Jessell, M.R., as follows: "As I understand the rule of law, it is a question of expression. If you have an expression giving over an estate on one event and that event will include another event which itself would be within the limit of perpetuities, or, as I say, the rule against perpetuities, you cannot split the expression so as to say if the event occurs which is within the limit the estate shall go over, although if that event does not occur, the gift over is void for remoteness. In other words, you are bound to take the expression as you find it, and if, giving the proper interpretation to that expression, the event may transgress the limit, then the gift is void. What I have said is hardly intelligible without an illustration. On a gift to A for life with a gift over in case he shall have no son who shall attain the age of twenty-five years, the gift over is void for remoteness. On a gift to A for life with a gift over in case he shall have no son who shall take priest's orders in the Church of England, the gift over is void for remoteness; but a gift superadded 'or if he shall have no son' is valid and takes effect if he has no son; yet both these events are included in the other event, because a man who has no son certainly never has a son who attains twenty-five or takes priest's orders in the Church of England, still the alternative event will take effect because that is the expression. The testator, in addition to his expression of a gift over, has also expressed another gift over on another event, although included in the first event, but the same judges who have held that the second gift over will take effect where it is expressed have held that it will not take effect if it is not expressed, that is, if it is really a gift over on the death before attaining twenty-five or taking priest's orders, although, of course, it must include the case of there being no son. That is what they mean by splitting; they will not split the expression by dividing the two events, but when they find two expressions they give effect to both of them as if you had struck the other out of the will. That shows it is really a question of words and not an ascertainment of a general intent, because there is no doubt that the man who says that the estate is to go over if A has no son who attains twenty-five, means it to go over if he has no son at all, it is, as I said before, because he has not expressed the events separately and for no other reason."

Upon that authority, if I understand it rightly, the gift in *Re Curryer's Will Trusts* would seem to have been good, because the testator did express two events separately, namely: "On the death of my last surviving child," that being one event, or "on the death of the last surviving widow or widower of my children," that being another event which, however, included the first event.

There are, however, later cases which appear to point to a contrary conclusion.

In *Re Harvey-Peek* v. *Savory* (1888), 39 Ch. D. 289, the will of a testatrix contained an ultimate limitation of her real estate to her right heirs in case both her daughters (for whom and their husbands and issue provision had been made by the will) should die without leaving any child or the issue of any child living at the decease of the survivor of them or of the survivor of their respective, then present or any future husbands. The personal estate was bequeathed by reference on the trusts of the real estate. Neither of the daughters married again. Each died leaving her husband surviving her, but no issue.

It was held by the Court of Appeal (reversing the decision of North, J.), that the gift over was not in the alternative on the happening of either of two distinct events, but a single gift over on one event involving two things: that as the testatrix had not separated the gift, the court could not separate it, and that, therefore, the gift over was void for remoteness.

In *Hancock* v. *Watson* [1902] A.C. 14, the facts were that a will made in 1860 gave residuary personal estate to trustees in trust for the testator's wife for life and after her death (which happened) as to two-fifths in trust for S.D. for her life and after her death for her children upon attaining twenty-five if sons, or upon attaining twenty-one or marriage if daughters, "but in default of any such issue" the two-fifths to be divided among the children of C, payable to sons at twenty-five or to daughters at twenty-one or marriage. S.D. died without having had a child. At her death, there were children of C, daughters who had all attained twenty-one or married.

It was held by the House of Lords that the whole gift over on the death of S.D. was void for remoteness and could not be split up into separate contingencies, one of which would make the gift valid and the other invalid.

In *Re Curryer's Will Trusts*, Morton, J., held that the testator had referred to two distinct events, and that the gift was good. The W.N. report does not give his lordship's reasons and it will be interesting to see what those reasons were when a full report is available. For my part, I think it very difficult to distinguish that case from *Re Harvey* and from *Hancock* v. *Watson*, especially the former.

From the conveyancer's point of view this case emphasises the necessity of care in drafting clauses of this kind. If the draftsman there had added after "widow or widower of my children" the words "such widow or widower being a person living at my death" all would have been well.

Both *Re Harvey* and *Hancock* v. *Watson* afford yet other illustrations of the iniquitous way in which the rule against perpetuities, as applied by the courts, operates. There cannot, as it appears to me, be any reason of public policy why the gifts in these cases should not have been valid and effect given to the expressed intention of the testators.

Landlord and Tenant Notebook.

Part Performance Necessarily Referable to the Contract.

The basis of the doctrine of part performance was described by Cotton, L.J., in *Britain* v. *Rossiter* (1879), 11 Q.B.D. 123, C.A., in these terms: "The true ground of the doctrine in equity is that, if the court found a man in occupation of land or doing such acts as would, *primâ facie*, make him liable at law to an action for trespass, the court would hold that there was strong evidence from the nature of the user of the land that a contract existed, and would allow verbal evidence to be given to show the real circumstances under which possession was taken." As to "the nature of the user of the land," it has been customary to cite Lord Hardwicke's judgment, in *Gunter* v. *Halsey* (1739), Amb. 586: "As to acts done in part performance, they must be such as *could* be done with *no other view* or design than to perform the agreement."

It has recently been shown that Lord Hardwicke's judgment may need a little qualification, if that of Cotton, L.J., does not already qualify it; for those who have perused the two passages with care will have observed that while Lord Hardwicke spoke of "the" agreement, Cotton, L.J., referred to "a" contract. What, then, is the position when a plaintiff proves user of the land inconsistent with trespass, but consistent, say, both with a view and design to obtain a lease and a view and design to acquire the freehold?

This point was recently dealt with by Farwell, J., in *Broughton* v. *Snook* [1938] 1 Ch. 505, the facts of which were such that his lordship remarked that he knew of no case in which the circumstances were exactly similar to them. The plaintiff, a publican, proved a verbal contract made in April, 1935, to buy a freehold inn. He was at that time licensee and occupier of a large and flourishing establishment at Sheffield, but was anxious to move into the country. The country inn was then let on quarterly tenancies to brewers and sub-let to another publican, and the agreement was that the sale should be completed on the expiration of the head lease on 1st January, 1937. No writing or memorandum was made by the vendor/superior landlord. The next thing that happened was that the under-tenant of the inn asked the purchaser, in October, 1936, whether he could move in before the end of the year as he (the under-tenant) had been offered other licensed premises by the mesne tenants. The plaintiff was willing to "take over," but consulted the vendor first, who "raised no objection, in fact, consented." Whether the sub-lease or head lease made it necessary for the parties immediately concerned to approach the superior landlord does not appear; at all events, on the 19th October, 1936, the plaintiff moved in, and the licences were transferred to him. The tenancy was quarterly, but we are not told whether he made any payment, either to the outgoer or to the mesne tenants, in respect of what remained of the last quarter; what did appear was that he laid out some £200 in alterations. While he was in occupation the vendor paid him two visits, but fell seriously ill in December and died in March, 1937. Two months later his executors, the defendants in the action, advertised the property for sale, describing it as "in the occupation of a tenant on a short tenancy;" thereupon the plaintiff sued for specific performance.

From the point of view of this "Notebook," it is interesting to consider what, in the state of the authorities, would have been the position if the plaintiff had claimed specific performance of an alleged agreement for a lease, and his evidence had been accepted in preference to any adduced against him.

The novelty of the circumstances lies, of course, in the fact that the plaintiff did not obtain possession when he did from the defendants' testator, nor even from that testator's tenants; he obtained possession with the approval of a superior landlord, and may be said to have retained possession with that party's consent or assent after the reversions had fallen in.

Thus, he would have been able to show that he had enjoyed possession; that the property was property which had been let before; that when he entered into possession he did so with the defendant's approval; that he had spent a considerable sum on the property.

Not to go too far back, one can start with *Maddison* v. *Alderson* (1883), 8 A.C. 467, in which Lord Hardwicke's principle was invoked. The facts have nothing to do with landlord and tenant, but is useful to cite the judgment of Lord Selborne, in which the learned Lord Chancellor said: "All the authorities show that the acts relied upon as part performance must be unequivocally, and in their own nature, referable to *some such agreement as that alleged*." This, I suggest, implies a possible watering down of the strict principle. In the same case, however, Lord O'Hagan said: "There is no conflict of judicial opinion, and in my mind no ground for reasonable controversy as to the essential character of the act which shall amount to specific performance, in one particular.

It must have relation to *the* one agreement relied upon, and to no other."

In *Hodson* v. *Heuland* [1896] 2 Ch. 428, Kekewich, J., dealing with a claim for a specific performance by an intending tenant who had entered before but remained in possession of stables adjoining the defendant's hotel after negotiations were concluded, and had paid rent in accordance with the terms of a draft lease, cited Lord O'Hagan's judgment in the last-mentioned case, and held that it fitted the facts. This decision was followed in *Biss* v. *Hygate* [1918] 2 K.B. 314, which came before the King's Bench Division by way of an appeal from a county court; the claim this time was the intended landlord of a market garden, who sued for rent; and though none had ever been paid, the defendant had retained possession for some time after the date verbally agreed upon (but recorded in an unexecuted lease) for the commencement of the term. In *Rawlinson* v. *Ames* [1925] Ch. 96, a landlord obtained a decree of specific performance of an agreement for a twenty-one year lease of a flat which had been considerably altered and re-altered by her to suit the requirements of the defendant. Romer, J., said: "It appears to me that this fact necessarily suggests the existence of *some such contract* as alleged. The act of the plaintiff in submitting, so far as she did submit . . . and in adopting . . . the suggestions made by the defendant and in acceding, etc. . . . are in my opinion *referable only* to a contract such as alleged."

It would seem, then, that if the plaintiff in *Broughton* v. *Snook* had alleged an agreement for a lease he would not have been in as good a position as the plaintiff in *Hodson* v. *Heuland*, who could produce a draft lease and who had paid rent; in *Biss* v. *Hygate* there was again a draft lease; while in *Rawlinson* v. *Ames*, apart from the existence of correspondence, there is the fact that the premises were a flat and flats are let but not sold.

And it would further seem that the result, as far as the authorities are concerned, must depend on what is meant by "some such agreement as that alleged." This, of course, does not mean that the acts proved must be such that all the terms of the agreement, be it for a lease or for sale, can be inferred from them; Lord Hardwicke himself, in *Gunter* v. *Halsey*, laid it down that the terms must be proved. But it is sufficient that the plaintiff should show that the acts imply an agreement relating to the land, and can he then go on to give oral evidence of its further nature as well as of its details? If so, it would be easier to obtain specific performance than some of us have supposed.

What happened in *Broughton* v. *Snook* was that the defence contended that the facts might refer to a tenancy. Farwell, J., who cited no authorities in the course of his judgment, said: "The court must be satisfied that the acts relied upon are necessarily referable to *the* contract, having regard to *all the circumstances*." His lordship ridiculed the idea that the plaintiff would have spent £200 on premises from which he might be evicted at the end of some two months or less after abandoning a flourishing business elsewhere. Nor would the testator have permitted or acquiesced in the expenditure.

Now the facts, as mentioned, include the fact that, shortly, after the testator's death the defendants advertised the property and described as being held "in the occupation of a tenant on a short tenancy." If the question were, are the facts and surrounding circumstances more consistent with an agreement for a short tenancy or with an agreement for the sale of the freehold, clearly the answer must be "with the latter." But what is puzzling is that the judgment does not deal with the possibility of just "a" tenancy, and it would therefore appear that the law laid down is that a plaintiff who has occasion to defeat a plea of the L.P.A., 1925, s. 40 (the successor to the Statute of Frauds), may do so by proving acts referable to some contract affecting the land and then proceed to prove by oral testimony both that it is some such contract as he alleges, and what its terms are.

Our County Court Letter.

ACCIDENT TO BUCKHOUND ON HIGHWAY.

In a recent case at Southampton County Court (*Dalgety* v. *Webb*), the joint master of the New Forest Buckhounds claimed £20 as damages for negligence, whereby a hound was killed on the highway by the defendant's lorry. The plaintiff's case was that, on the 11th October, 1937, the pack broke cover and crossed the road. Two ladies (on horseback) gave a "slow down" signal, but this was ignored by the lorry driver. One hound got clear, a second was hit and injured, but the third (a second season bitch) was killed. The lorry driver's evidence was that he was driving a three-ton vehicle, loaded with timber, at a speed of 10 to 12 m.p.h. On seeing some stationary cars ahead, he thought there had been an accident. Suddenly, however, a lady gave the "slow down" signal from behind a car, giving him no time to pull up before the hounds broke cover. His Honour Judge Barnard Lailey, K.C., gave judgment for the defendant, with costs.

CUSTODY OF TITLE DEEDS.

In a recent case at Stourbridge County Court (*In re Yates, deceased; Randall and Another* v. *Wood*), the plaintiffs were the administrators of the deceased, and they claimed possession of a house at Kinver; the delivery up of the title deeds and a pass-book; £71 as mesne profits in respect of the defendant's occupation of the house since the death of the deceased. The plaintiffs were the brother and sister of the deceased, and their case was that the house was semi-detached, being next door to a house let at £1 a week. There was also a garden piece adjoining, which the defendant had let to campers. The defendant's case was that, having been awarded £350 as compensation in respect of an injury to his eyes, he had become a partner of the deceased, and had also lived with her as man and wife for fifteen years. The defendant had bred pigs and dealt in scrap iron, besides keeping in repair the property of the deceased. She had accordingly made a will in his favour, but the document had disappeared. The defendant had, therefore, wished to counter-claim for services rendered, but had abandoned the intention. His Honour Judge Roope Reeve, K.C., observed that the evidence was that the deceased had died intestate. If, however, a will was in existence, the defendant could apply to the Probate Court for revocation of the letters of administration. There was no corroboration of the allegation of co-habitation, and the defendant had had the benefit of board and lodging for fifteen years. An order was made for possession of the house, and for delivery up of the title deeds and pass-book. Judgment was also given for £30 in respect of the defendant's occupation of the property since the title of the plaintiffs had accrued, with costs.

MAINTENANCE ARREARS.

In *Mills* v. *Mills*, recently heard at Kidderminster County Court, the claim was for £10 as money due under a separation agreement. The counter claim was for £15 5s. as money paid on the plaintiff's behalf. The case for the plaintiff was that the separation agreement was dated the 26th October, 1933, and the defendant thereby agreed to pay his wife (the plaintiff) 10s. a week. Previous proceedings had been taken as follows: in 1935, 1936 and 1937 for £5 10s., £3 10s. and £7 respectively. In July, 1937, the defendant had claimed £19 16s. 4d. as damages for detinue of goods, but the action had failed. The present claim was in respect of twenty weeks' arrears, from the 10th January to the 23rd May. The defendant's case was that in January, 1933, his wife had taken up a corsetry agency, and had borrowed £15 15s. from him to pay the premium. The amount was repayable at Christmas, 1933, but she had merely offered him the patterns and samples in settlement. A bundle of receipts was produced in support of the counter-claim, but, being unstamped, they were held inadmissible. His Honour Judge Roope Reeve, K.C., gave judgment for the plaintiff for £10 and costs.

To-day and Yesterday.

LEGAL CALENDAR.

25 JULY.—The Reverend William Winterbotham was tried at Exeter Assizes on a charge of sedition, on the 25th July, 1793.

26 JULY.—On the 26th July, 1834, Robert Malone was tried at the Kilkenny Assizes for his part in a landlord shooting affair on the road between Ross and Waterford in which a gentleman named Leonard lost his life. An accomplice turned King's Evidence, told how the victim had been ambushed as he was driving along in his gig. In vain, when his pony's bridle was seized, he cried out: "I'll give you a new lease and forgive Meany's rent." He was finished off with stones. The jury after a short deliberation found the prisoner guilty and he was hanged.

27 JULY.—Mr. Justice Glanville of the Common Pleas, who died on the 27th July, 1600, is said to have been the first judge who started his legal career as an attorney. He was buried in the church at Tavistock, beneath a recumbent effigy of himself in full judicial robes. The figure represents him as somewhat corpulent. His tenure of judicial office was relatively brief, for little more than a year elapsed between his appointment and his death.

28 JULY.—At ten minutes past eight on the morning of the 28th July, 1865, Dr. Pritchard of Glasgow, was executed at Edinburgh in the presence of about 80,000 people, for poisoning his wife and her mother. This strange man whose charm of manner had for a while averted suspicion from him, walked firmly to the scaffold with his eyes turned heavenwards. When asked by the magistrate whether he had anything to say, he replied in a clear but sepulchral voice: "Simply to acknowledge the justice of my sentence." When all was ready, the bolt was drawn. We are told that he died uneasily.

29 JULY.—On the 29th July, 1831, John Bell, a boy of fourteen, was tried at the Maidstone Assizes for the murder of another boy. The victim's father received an allowance from the parish authorities, and it was while fetching it home that the poor child was decoyed by Bell into a wood and murdered. Although he begged for mercy and promised all he had to give, his assailant cut his throat without a word. The jury brought in a verdict of "Guilty." with the inevitable sentimental recommendation to mercy on the ground of youth, but the judge held out no hope of reprieve and the little assassin was hanged.

30 JULY.—Captain Moir, a gentleman farmer whose land lay on the Essex bank of the Thames, had arbitrary methods of protecting his property. Having caught a man called Malcolm fishing in his creek, he ordered him to take up his nets on pain of having them cut. A little while after he caught the offender leaving his land in a direction where there was no footpath and discharged a pistol into his arm, declaring that if he didn't go the way he should he would get a bullet in his brain. Unfortunately for him the wound became infected and the trespasser died. Moir was tried for murder at the Chelmsford Assizes on the 30th July, 1830, found guilty and sentenced to be hanged and dissected.

31 JULY.—A singular case heard at the Cardiff Assizes on the 31st July, 1869, drew three or four hundred persons to the court house, including nearly all the clergy of the neighbourhood and many of the gentry. The plaintiff was a Jewish moneylender, the principal defendant was a Welsh dissenting minister, and the central figure was Esther Lyons, the nineteen-year-old daughter of the plaintiff who was alleged to have been enticed away from home by a proselytizing conspiracy. The case for the defendants, supported by the evidence of Esther herself, was that she had run away of her own accord to escape the violence and ill-treatment of her mother. Nevertheless, in spite of the clearly indicated view of Mr. Baron Channell, the jury awarded £50 damages.

THE WEEK'S PERSONALITY.

The crop of sedition trials springing from the scare created by the horrors of the French Revolution swept an extraordinary number of interesting figures into the dock. Amongst these was William Winterbotham, a Baptist preacher, who, though his father had been a soldier in the Pretender's army, stood well to the left in politics. In his early twenties he had a severe illness which caused him to review the nature of certain dissolute habits he had contracted. His conversion led him first to the Methodists and then to the Baptists, and before he was thirty he had attained some standing as a preacher. It was a gunpowder plot sermon delivered on the 5th November, 1792, that brought him into collision with the law. In it he declared that he highly approved of the French Revolution. "Why," he asked, "are your streets and poor houses crowded with poor and your gaols with thieves but because of the oppressive laws and taxes? I am astonished that you are quiet and contented under these grievances and do not stand forth in defence of your rights." He was tried before Mr. Baron Perryn at the Exeter Assizes, convicted and sentenced to two years' imprisonment. Years afterwards he received an anonymous gift of £1,000 which was supposed to be the conscience money of one of the jurymen.

HOT AND COLD.

Various are the problems of those responsible for preparing courts for the assizes. Early in the year Humphreys, J., declared at Winchester that he was not going to sit in a place where his right hand was so cold that he could hardly write. Twenty men for twenty hours toiled forthwith to instal twentieth century heating in a thirteenth century hall, and then it was found that it was too hot. Now, at Durham Assizes, Goddard, J., has complained to the County Council thus: "Whether the Council thinks that justice is best administered in a court where there is no ventilation whatever, where judges, jury and counsel can hardly keep awake, sometimes because of the stifling atmosphere, I don't know. At present the only way of ventilating this court is by opening a series of doors on the left of the judge, causing a cold draught on one side of his face." The learned judge, might, of course, have drawn official attention to his sufferings by following the precedent of Maule, J., and ordering the windows to be smashed. Another judge, on the other hand, might wish to take every precaution for excluding air like the one who even stopped a ventilator by getting the attendant policeman to sit on it.

THE ABDUCTED WIFE.

At Wiesbaden, a husband was recently sentenced to three weeks' imprisonment for kidnapping his own wife. Three weeks before his coup she had left home, and all appeals failing he had carried her off by force in his car. It is not yet fifty years since the Court of Appeal decided in the great *Jackson Case* that that sort of thing can't be done in England. Edmund Jackson, having obtained an order for restitution of conjugal rights, seized his wife at the door of Clitheroe Church one Sunday morning in 1891, bundled her into a waiting carriage with the help of two determined friends and then, driven by a liveried coachman, sped away before the eyes of the scandalised congregation. When the lady's friends arrived at his home they found it barricaded and sat down to besiege it day and night. Habeas Corpus failed to secure the captive's release before Cave and Jeune, JJ., but on appeal Lord Halsbury and Lord Esher liberated her. That year, in his speech at the annual dinner of the Royal Academy, Lord Bowen, said: "I have been greatly interested in one beautiful work of art on your walls depicting Proserpine, Queen of Hades, just released from an unwelcome honeymoon

by an order of the Court of Appeal. I am credibly informed, although my eyesight does not enable me to verify the statement, that in the extreme background may be seen my learned colleagues, the Lord Chancellor and the Master of the Rolls, viewing with pleasure the liberated captive."

Obituary.

Sir THOMAS HORRIDGE.

Sir Thomas Gardner Horridge died at Hove on Monday, 25th July, at the age of eighty. Born at Bolton, he was a solicitor until he was called to the Bar by the Middle Temple in 1884. He took silk in 1901. In 1906 he became Member of Parliament for East Manchester, defeating the ex-Prime Minister, Mr. Balfour. In 1910 he was appointed a judge of the High Court. He was elected Treasurer of the Middle Temple in 1929, and was sworn a member of the Privy Council on his resignation from the High Court last year. An appreciation appears at p. 613 of this issue.

Mr. G. J. de FREITAS, K.C.

Mr. G. J. de Freitas, K.C., died at Walton-on-Thames on the 11th July, 1938, at the age of sixty-five. He was educated at Stonyhurst College and afterwards at Campolidé University, Lisbon, where he took a degree in philosophy. Mr. de Freitas, who took silk over twenty-five years ago, was the senior King's Counsel of British Guiana and for the past nineteen years he has been associated in partnership with the law firm of Cameron & Shepherd there. He has on several occasions acted both as puisne judge and also as Chief Justice for the Colony and he held the position of Judge Advocate-General there for many years.

Mr. A. H. BARNES.

Mr. Alfred Henry Barnes, solicitor, of Messrs. Barnes & Son, of Lichfield, died on Monday, 25th July, at the age of sixty-six. He was admitted a solicitor in 1895, and in 1913 was appointed Clerk to the Lichfield Justices. In 1923 he became Clerk to the Justices of the County of Stafford for the Division of Lichfield and Brownhills.

Reviews.

Blackwell's Law of Public and Company Meetings. Eighth Edition. By Charles E. Scholefield, of the Middle Temple, Barrister-at-Law, and Richard Isdell-Carpenter, B.A., of Gray's Inn, Barrister-at-Law. Crown 8vo. pp. xxix and 248 (Index, 23). London: Butterworth and Co. (Publishers), Ltd. 6s. net.

A new edition of this little book was rendered necessary by the coming into force of the Local Government Act, 1933, but the authors with remarkable foresight waited until after the passing of the Public Order Act, 1936, before producing the new edition, which they brought thoroughly up to date. There is a chapter on the latter Act which is, in effect, a transcription of the Act. It would, perhaps, have been more satisfactory to have had the Act set out *verbatim*, as, in any event, reference would probably have to be made thereto.

The book deals with meetings of every description and with matters closely and remotely connected with meetings, as, for instance, blasphemy and writing on pavements, but not, curiously enough, with writing on walls, a more common form of mania. The local government sections are full enough to make this a work of reference rather than, as its size would suggest, a handbook. Not only are proceedings at the meetings of various councils, from the borough to the parish, dealt with, but there are useful chapters on education authorities, old age pension committees, and on polls on promotion of Bills.

The part devoted to company meetings is good as far as it goes, but, as the authors point out, anything in the nature of a dissertation would be outside the scope of the work. In addition, companies are, of course, at liberty to frame their own regulations as to meetings and a text-book can only deal with the regulations contained in Table A.

The index is definitely a good one, even though the book is so arranged as to make reference to an index only occasionally necessary. The book will just fit into an ordinary-sized pocket, and a solicitor or layman attending a meeting might well carry it there, surreptitiously or otherwise.

Palmer's Company Law. Sixteenth Edition. 1938. By Alfred F. Topham, LL.M., Bencher of Lincoln's Inn, one of His Majesty's Counsel, and A. M. R. Topham, B.A., of Lincoln's Inn, Barrister-at-Law. Royal 8vo. pp. clii and (with Index) 762. London: Stevens & Sons, Ltd. £1 5s. net.

With this year "Palmer's Company Law" celebrates its fortieth birthday, but it shows no signs of approaching middle-age; indeed its bulk is somewhat less than it was formerly, while it is as up to date as ever in its outlook.

Certain re-arrangements have been made which enhance the utility of the book: thus winding up, which was formerly dealt with in one chapter, is now split up into separate chapters. Further duplication of sections has been to some extent avoided, with a view to keeping the size of the volume down; and in this connection it may perhaps be doubted whether Chap. XLVIII, which sets out in very concise form the effect of some forty-seven leading cases relating to company law, is really of sufficient value to warrant its retention. No one would deny the importance of these cases (though their relative importance does vary enormously) but a little thought brings to mind other cases of considerable importance, and the question really is whether, if such a chapter is to be done at all, the editors are justified in stopping at forty-seven cases.

It is unfortunate that this edition was just too early to incorporate the new r. 2 of Ord. LIIIB, but such things are inevitable, and the work has clearly been carefully revised and modernised, and well justifies its sub-title of "A Practical Book for Lawyers and Business Men."

Register of Chartered Surveyors, Chartered Land Agents and of Auctioneers and Estate Agents, 1938. Royal 8vo. pp. xxiv and 1,305 London: Thomas Skinner & Co. (Publishers), Ltd. Price £1, post free.

The second edition of this useful reference book has been brought up to date, and contains several minor improvements. The chief value in the book lies in having in one volume lists of members and firms engaged in the professions with which it is concerned. A new feature in this edition is the inclusion of a statistical information section.

Books Received.

The Secretarial Handbook. A practical guide to a Secretary's duties under the Companies Act, 1929. By E. Westby-Nunn, B.A., LL.B., of Lincoln's Inn, Barrister-at-Law. Fourth Edition, 1938. Demy 8vo. pp. viii and (with Index) 254. London: The Solicitors' Law Stationery Society, Ltd. 7s. 6d. net.

The British Year Book of International Law, 1938. Nineteenth year of issue. Super Royal 8vo. pp. vi and (with Index) 316. London: Oxford University Press. 16s. net.

The Law College Magazine. Vol. IX, Nos. 1–2. May, 1938 Edited by Y. V. Dixit, B.A., LL.B., Advocate, and N. K. Petigara, B.A., LL.B., Attorney-at-Law. Bombay: Government Law College. Annual subscription, Rs.3.

Notes of Cases.

Court of Appeal.

Coleridge-Taylor *v.* Novello & Co. Ltd.

Greene, M.R., Scott and Clauson, L.JJ.
7th, 8th and 11th July, 1938.

COPYRIGHT—ASSIGNMENT—PERIOD LIMITED BY STATUTE—COPYRIGHT ACT, 1911 (1 & 2 Geo. 5, c. 46), ss. 5 (2), 24 (1).

Appeal from a decision of Morton, J. (82 SOL. J. 352).

By an agreement executed in March, 1912, the composer of a musical work first published in September, 1911, being the first owner of the copyright therein, assigned to the defendant company all his copyright and right of publication and performance and all his other rights and interests therein at law or in equity absolutely, in consideration of a royalty to be paid by the company to him so long as the copyright should last. He died in September, 1912. The agreement was made after the passing of the Copyright Act, 1911, in December, 1911, and before its commencement and coming into force in July, 1912. Morton, J., held that by virtue of the proviso to s. 5 (2) of the Act as from the termination of twenty-five years from the composer's death (i.e., in September, 1937), his legal personal representatives were entitled to the copyright free from any interest of the company. By that proviso where the author of a work was the first owner of the copyright therein, no assignment of the copyright made by him "after the passing of this Act" should vest in the assignee any rights with respect to the copyright beyond twenty-five years from the author's death, and that the reversionary interest should vest in his legal personal representatives, any disposition by him of the reversionary interest being null and void.

GREENE, M.R., allowing the company's appeal, said that when the agreement was executed the Act had not come into force, and the composer's rights were those prevailing under the existing law and expiring in September, 1953, forty-two years after the date of publication. It, therefore, only vested those rights in the defendants. Immediately before the commencement of the Act they were entitled to copyright and performing right as specified in the first column of the First Schedule, and s. 24 (1) gave them the substituted right which here, but for the proviso to that sub-section, would have expired in September, 1962, fifty years after the composer's death (s. 3). The proviso recognised the moral claim of authors to the benefit of the windfall resulting from the Act and enacted that if the author before the commencement of the Act had assigned his right, then at the date when but for the passing of the Act the right would have expired the substituted right conferred by the section should pass to him. That fitted the present facts precisely. The proviso to s. 5 (2) could not be given the meaning for which the plaintiffs contended. A clear meaning could be given to it if its effect were confined to assignments of copyright under the Act (i.e., the new copyright). An author might well between the passing and the commencement of the Act have entered into an agreement with regard to future works. This proviso dealt with such a transaction and did not qualify s. 24.

COUNSEL: *Shelley*, K.C., and *Macgillivray*; *Evershed*, K.C., and *F. E. S. James*.

SOLICITORS: *Field, Roscoe & Co.*; *Syrett & Sons*.

[Reported by FRANCIS H. COWPER, Esq., Barrister-at-Law.]

Kawasaki Kisen Kabushiki Kaisha *v.* Bantham Steamship Co. Ltd.

Greer, Slesser and MacKinnon, L.JJ.
22nd July, 1938.

SHIPPING—CHARTER-PARTY—PAYMENT FOR SHIP TO BE BY DEADWEIGHT AND IN ADVANCE—DELAY IN PAYMENT AFTER DELIVERY OF SHIP—CHARTERERS NOT INFORMED OF DEADWEIGHT—RIGHT OF OWNERS TO WITHDRAW SHIP.

Appeal from a decision of Branson, J. (82 SOL. J. 215).

In 1936 the owners of a steamer not then completed by the builders let it on hire by a charter-party to the charterers. The hire was to run for twelve months from the time when she could be delivered to the charterers. It was provided that the charterers should pay for the hire 3s. 9d. a ton on deadweight, as ascertained on delivery from builder's yard, British sterling per month, commencing on and from the day of her delivery to the charterers. Payment of the hire was to be made in London in cash monthly in advance, and failing punctual payment of hire the owners were to be at liberty to withdraw the vessel from the service of the charterers. Delivery was to count from 7 a.m. on the working day following that on which written notice was given before 4 p.m., but if required by charterers loading was to commence at once, such time to count as hire. The steamer arrived at Houston, Texas, on the morning of 13th April, 1937. The charterers' agents accepted her on their behalf and requested the captain to begin loading at once, agreeing with him that she should be considered as having been delivered at 3 p.m. on 13th April. A written certificate of delivery was drawn up and dated 13th April, but was not in fact signed by either party till 15th April. Further, on 13th April the captain made out a written notice, dated 1.30 p.m. on 13th April, that the vessel was ready to load, but he did not present it to the agents till 3.55 p.m. on 15th April. On 14th and 15th April the owners applied to the charterers' London agents for payment of the first month's hire, but the agents were unable to pay, though advised by cable that funds were being remitted. Thereupon the owners gave notice of withdrawal of the vessel from hire on the ground of non-payment. At 7 p.m. on that evening they received a cheque in payment of the first month's hire, but this was at once returned. Acting on cabled instructions, the captain stopped loading. Branson, J., held that the owners were not entitled to withdraw the ship.

GREER, L.J., dismissing the owners' appeal, said that the charter was not a demise of the ship. The undertaking of the charterers was fulfilled by loading her at the port of loading. They had no right to search her, to send on board a surveyor to ascertain her deadweight. There was no evidence that they were present when she was delivered or that they had any opportunity by reading any publication with regard to her of ascertaining it. The shipowners were in possession of her throughout, and liable to permit loading to begin. The judge was entitled to conclude that they were under an obligation before they enforced their rights to give the information to the charterers. They did not do so. The principle applied by the judge was not confined to disputes between landlord and tenant. It was an implied term of any contract, where one party had the means of knowledge and the other had not, that before forfeiture was insisted on there should be given information by the party who knew to the party who did not.

SLESSER and MACKINNON, L.JJ., agreed.

COUNSEL: *Miller*, K.C., and *C. T. Miller*; *Sir Robert Aske*, K.C., and *W. McNair*.

SOLICITORS: *Ince, Roscoe, Wilson & Glover*, for *Allen Pratt & Geldard*, of Cardiff; *Thomas Cooper & Co.*

[Reported by FRANCIS H. COWPER, Esq., Barrister-at-Law.]

Perry *v.* Croydon Borough Council.

Greer, Slesser and MacKinnon, L.JJ.
26th July, 1938.

PRACTICE—ACTION AGAINST LOCAL AUTHORITY—STAY OF PROCEEDINGS TILL DECISION OF ANOTHER ACTION—SOME CAUSES OF ACTION COMMON TO BOTH ACTIONS—SEPARATE QUESTION RAISED IN ONE—WHETHER DISCRETION RIGHTLY EXERCISED.

Appeal from a decision of Macnaghten, J.

V.P., the widow and administratrix of E.P., who died as a result of a typhoid outbreak, brought an action against the

defendant council claiming damages under the Fatal Accidents Acts, 1846–1908, and the Law Reform (Miscellaneous Provisions) Act, 1934, for alleged negligence and/or breach of statutory duty and/or nuisance on the part of them, their servants or agents in respect of the water supply. Her claim was based on an allegation of negligence in permitting the use of unsuitable sanitary accommodation by workmen repairing a certain well. It was alleged that one of the workmen was a typhoid carrier. One A.R. also brought an action against the defendant council in respect of the same outbreak, relying on alleged negligence, breach of statutory duty and nuisance. He also relied on an alleged contractual liability arising from the fact that he was a ratepayer. V.P. was not a ratepayer. Nearly 200 actions had been commenced against the defendant council and about seventy of the plaintiffs had agreed to treat A.R.'s action as a test case. The hearing of that action had been fixed for the 24th October, 1938. Macnaghten, J., ordered the proceedings in V.P.'s action to be stayed till after the trial of A.R.'s action. V.P. appealed.

GREER, L.J., allowing the appeal, said that the order produced an injustice. V.P. had in some respects the same causes of action as A.R., but one question raised in his case was not raised by hers, the question whether the council were liable on an alleged breach of contract. V.P. wished to go on with her action and apply for a trial by jury. The issues in the two cases were not identical. The order must be set aside.

SLESSER and MACKINNON, L.JJ., agreed.

COUNSEL: *Sir Patrick Hastings*, K.C., and *J. Ashworth*; *J. Morris*, K.C., and *H. Pratt*.

SOLICITORS: *Slaughter & May*; *Sharpe, Pritchard & Co.*, for *E. Taberner*, of Croydon.

[Reported by FRANCIS H. COWPER, Esq., Barrister-at-Law.]

Appeals from County Courts.

Burlington Property Co. Ltd. *v.* Odeon Theatres Ltd.

Greer, Slesser and MacKinnon, L.JJ.
7th July, 1938.

BOUNDARIES—PARTY WALL—SALE OF LAND—HALF OF WALL RESERVED TO VENDOR—PROPOSAL TO REPLACE WINDOWS BY OPENINGS DOWN TO GROUND—AWARD OF SURVEYOR—WHETHER JURISDICTION EXCEEDED—LONDON BUILDING ACT, 1930 (20 & 21 Geo. 5, c. clviii), s. 117.

Appeal from Westminster County Court.

In 1905, the predecessor in title of the plaintiffs conveyed to the predecessor in title of the defendants a piece of freehold land on the northern boundary of which was a wall extending along the south side of a passage called Hunt's Court and having three windows in it looking out thereon. By the conveyance it was provided that the predecessor in title of the plaintiffs and the persons deriving title under him to the land belonging to him on the north side of Hunt's Court and abutting thereon should "be entitled without payment to one half of the wall along the northern boundary of the said premises" conveyed to the defendants between certain stated points, "and to the use of the said wall for the support of any buildings or erections which he or they may at any time erect or rebuild over Hunt's Court." Along the passage there was a public right of way. The defendants now intended to build a cinema on the land conveyed and wished to replace the windows by openings giving the public egress therefrom. The wall having been pulled down and a dispute having arisen with regard to its rebuilding, there was a reference under s. 117 of the London Building Act, 1930, the plaintiffs contending that the wall should be rebuilt with no other apertures than those which were there previously. An award sanctioning the rebuilding in the manner projected by the defendants was upheld by His Honour Judge Dumas.

GREER, L.J., allowing the plaintiffs' appeal, said that the conveyance had reserved to the plaintiffs out of the land conveyed half the party wall from the soil below to the top of the building. The award had excluded part of the wall from the rights vested in them to have it kept in existence as it was. The judge was wrong in affirming the award.

SLESSER and MACKINNON, L.JJ., agreed.

COUNSEL: *Vaisey*, K.C., and *Edgerley*; *Rimmer*.

SOLICITORS: *Barnes & Butler*; *Simmons & Simmons*.

[Reported by FRANCIS H. COWPER, Esq., Barrister-at-Law.]

High Court—Chancery Division.

In re Nicholson; Chadwyck-Healey *v.* Crawford.

Crossman, J. 16th June, 1938.

ADMINISTRATION—BEQUEST OF ANNUITY—FUND TO BE APPROPRIATED—GIFT OF APPROPRIATED FUND ON CESSATION OF ANNUITY—DEFICIENCY—ABATEMENT.

By his will made in 1935, the testator gave certain pecuniary legacies. He also gave to L.C., who was born in 1904, an annuity of £250 free of duty and income tax. He directed his trustees to appropriate and retain a sufficient part of his estate to answer this annuity and declared that if the income of the appropriated fund should at the time of appropriation be sufficient to satisfy the annuity, such appropriation should be a complete satisfaction of the trust to provide for the annuity, and the annuitant should have no claim against any other part of the estate. He further declared that if the income of the appropriated fund should at any time prove insufficient for payment in full of the annuity, resort might be had to the capital thereof from time to time to make good the deficiency and that the surplus income (if any) of the fund from time to time remaining after payment of the annuity should be applicable as income of his residuary estate. When the annuity should cease, he gave the appropriated fund, or so much of it as should not have been applied in payment of the annuity, to the School of English Church Music. The testator gave all his residuary estate to his trustees in trust for sale and conversion, directing them to pay out of the moneys arising therefrom the legacies given by his will. Finally, he disposed of the residue of those moneys. On his death, his estate amounted to about £15,000. The pecuniary legacies amounted to about £9,000 and the sum required to provide for the annuity in full was about £9,500. The actuarial value of the annuity was about £7,500. There being a deficiency, the question arose how the annuity should be provided for.

CROSSMAN, J., said that the annuitant had contended that the value of the annuity, at the date of the testator's death should be treated as the value of a pecuniary legacy to abate proportionately with the other legacies and be paid to her, thus destroying the gift to the School of English Church Music. Alternatively, the annuitant had contended that the amount to be appropriated, if the will were carried out strictly, should be ascertained and that after abatement the annuity of £250 should be paid out of the income and, so far as the income was insufficient, out of capital of the fund. The School of English Church Music had contended that the amount of the fund which should have been appropriated should be assessed and abated and that there should be paid out of the abated sum in respect of the annuity an annual sum abated in proportion to the reduction of the appropriated sum, that annual sum, so far as the income was insufficient, being made up out of the capital of the fund. His lordship considered that this was not a case where the annuitant was entitled to have paid over to her the abated value of the annuity, because the fund was in terms given over to a legatee. It was as much a legacy as the other legacies given. It was not residue. The annuity must be provided for by assessing at the testator's death the sum required to be set aside to answer the annual amount thereof and by the abatement of that sum along with the legacies. The appropriated fund being cut down, that was all that was

necessary in the way of reduction. The annuitant should be paid her full annuity out of the sum set aside, and in so far as the income of the fund was insufficient, it should be paid out of capital.

COUNSEL: *E. Riviere; R. Hodge; Overton; G. Upjohn; J. S. Bennett.*

SOLICITORS: *Knapp-Fisher & Wartnaby; A. & G. Tooth; Treasury Solicitor.*

[Reported by FRANCIS H. COWPER, Esq., Barrister-at-Law.]

In re Maville Hose Ltd.

Simonds, J. 12th July, 1938.

COMPANY—WINDING UP—ORDER BY REGISTRAR—DIRECTOR OF ANOTHER COMPANY TO ATTEND FOR EXAMINATION—PRODUCTION OF DOCUMENTS SHOWING PAYMENT OF MONEYS TO COMPANY IN LIQUIDATION—WHETHER IN EXCESS OF JURISDICTION—COMPANIES ACT, 1929 (19 & 20 Geo. 5, c. 23), s. 214.

On the application of the liquidator of the M. Co., which was in voluntary liquidation, the registrar ordered a director of the C. Co. to attend and be examined under s. 214 of the Companies Act, 1929, and also to produce a debenture to secure £2,000 given by the M. Co. to the C. Co. in September, 1931, another debenture to secure £4,000 given in January, 1932, a guarantee given by the M. Co. to the C. Co., a banker's pass book of the C. Co., and any other document showing payment of any moneys advanced to the M. Co. and the state of accounts between the companies. The director sought to discharge the order as being made in excess of jurisdiction and being oppressive.

SIMONDS, J., said that he would not decide whether a director could properly be said to have in his custody or power documents in the company's possession. The order, so far as it related to the production of documents, should not, in the discretion of the court, have been made. It might be that when the director attended for examination, upon certain answers being given by him, certain documents should be produced. But there were various questions to be determined before that stage could be reached. The order was oppressive. It was important not to allow s. 214, which was somewhat inquisitorial, to be used for purposes beyond its proper limits. The part of the order relating to production of documents should be discharged. The liquidator should pay the applicant's costs.

COUNSEL: *R. W. Turnbull; J. Lindon.*

SOLICITORS: *Peacock & Goddard*, for *Ellio', Smi h & Co.*, of Mansfield; *Ashurst, Morris, Crisp & Co.*, for *Taylor, Simpson & Mosley*, of Derby.

[Reported by FRANCIS H. COWPER, Esq., Barrister-at-Law.]

In re Curryer's Will Trusts; Wylie *v.* Curryer and Others.

Morton, J. 15th July, 1938.

WILL—GIFT ON DEATH OF TESTATOR'S LAST SURVIVING CHILD OR LAST SURVIVING WIDOW OR WIDOWER OF HIS CHILDREN "WHICHEVER SHALL LAST HAPPEN"—RULE AGAINST PERPETUITIES—WHETHER GIFT VALID.

By his will a testator, who died in 1903, dealing with his residuary estate and certain accumulations provided for, directed that "on the decease of my last surviving child or on the death of the last surviving widow or widower of my children, as the case may be, whichever shall last happen, I direct my trustees to stand possessed of the trust fund including therein the accumulated sum at the end of the said term of twenty-one years in trust for my grandchild or grandchildren living at the period of distribution and the issue then living of my grandchild or grandchildren dying before that period, such grandchild or grandchildren taking as tenants in common and the issue of any grandchild or grandchildren taking their parents' share as tenants in common, the shares of the grandchildren and other issue being males, to be paid at the age of twenty-one years, or being females, at that age or marriage." A summons taken out in 1938 raised the question whether the bequest was void as infringing the rule against perpetuities.

MORTON, J., said that a gift for a class to be ascertained on the basis of the testator's last surviving child would not infringe the rule. A gift for a class to be ascertained on the death of the last surviving widow or widower of his children would infringe the rule, as a child might marry a person who was not alive and in being at the testator's death. His lordship referred to *Monypenny* v. *Dering*, 2 De G. M. & G. 145, at pp. 183-4, and *Miles* v. *Harford*, 12 Ch. D. 691, at p. 702, and said that here the testator had expressed the events separately. There was sufficient expression of the two alternatives. This case differed from *In re Harvey*, 39 Ch. D. 289, and *Hancock* v. *Watson* [1902] A.C. 14, because the testator had referred to two distinct events. The words "as the case may be whichever shall last happen" were not enough to make this gift infringe the rule.

COUNSEL: *R. Goff; Strickland; Parbury; W. E. Vernon; Henry Johnston.*

SOLICITORS: *E. F. Hunt.*

[Reported by FRANCIS H. COWPER, Esq., Barrister-at-Law.]

High Court—King's Bench Division.

Smith *v.* Cornhill Insurance Co. Ltd.

Atkinson, J. 28th May, 1938.

INSURANCE—MOTOR CAR—ASSURED INJURED—CONCUSSION—DEATH ON ENTERING STREAM WHILE SEMI-CONSCIOUS—WHETHER RESULTING SOLELY FROM ACCIDENT.

Action claiming £1,000 under an insurance policy.

The plaintiff was the executrix of the will of a Miss C. A. E. Davies, who had taken out with the defendant insurance company a policy providing, *inter alia*, for payment of £1,000 to the assured or her estate in the event of her death, "provided that death occurs within six weeks from the date of the accident and as the result solely of bodily injury caused by violent, accidental, external and visible means sustained by the insured while travelling in the insured car." While the assured was driving the car, it left the road at a bend and fell down a steep bank, with the result that she received injuries to her head, causing severe damage to and concussion of the brain. While in a dazed condition resulting from her state of concussion, she wandered through a thicket and came to a stream, into which she stepped, death ensuing immediately. Evidence was given that death arose from heart-failure on entering the stream, the shock of which would have had no effect on her but for the injury from which she was suffering, as she was a person of perfect health. The death was proved not to be due to drowning. The plaintiff having brought this action claiming the £1,000 as being due under the policy, the defendants contended that the deceased's death was not the result solely or at all of bodily injury caused as contemplated by the policy. *Cur. adv. vult.*

ATKINSON, J., said that he found as a fact on the medical evidence that the deceased suffered from serious mental and physical shock as a result of the injury to the brain. The medical witnesses called for the plaintiff were quite certain that she must have suffered from concussion which would be followed for a period by insensibility. That in turn would be followed by a period of mental confusion or dazedness in which she would not be fully conscious, or conscious at all, of what she was doing. While in that semi-conscious state, she proceeded to wander through the bushes aimlessly. As a result of that state, she stepped into the water, and that shock finished her off. That shock would have been insignificant but for the serious condition in which she was. Any sensible person would inevitably have made for the road.

That fact, coupled with the circumstance that the moment she stepped into the water she died, convinced him that she was in a most precarious condition. The cases which had been cited turned on the language of the particular document which the court was in each case construing. The policy in question said "as the result," not "as the immediate result." The assured was, indeed, given six weeks in which to die. A result had been defined as something which followed as an actual consequence. The question was whether this death had followed as the actual consequence of the bodily injury. It was seriously urged for the defendants that this death was not the result solely of the injury but at any rate in part the result of a second accident—namely, the stepping into the water. Independently of any authorities, the true principle appeared to be that if there were a chain of causation starting with an accident which was the cause of another accident leading up to death, that death resulted solely from the primary cause. If there were an intervening cause which was not also the result of a previous cause leading from the accident there would be a new intervening act independent of the chain of causation. It might then properly be said that death was not the result solely of the injury. A real guide was to be found in cases on this subject decided under the Workmen's Compensation Acts. It happened that the language of the policy was, except for the word "solely," that of the Workmen's Compensation Act, 1925: "Compensation where death results from the injury." His lordship then reviewed the authorities, including decisions under the Workmen's Compensation Acts, and held that, the death of the deceased being solely caused by her motor accident, there must be judgment for the plaintiff.

COUNSEL: *Blanco White*, K.C., and *P. M. Wright*, for the plaintiff; *G. J. Paull*, for the defendants.

SOLICITORS: *Hancock & Willis*, for *Wellington & Clifford*, of Gloucester; *Stanley & Co.*

[Reported by R. C. CALBURN, Esq., Barrister-at-Law]

R. *v.* **Barnes Corporation; *Ex parte* Conlan.**

Lord Hewart, C.J., Branson and Humphreys, JJ.
2nd June, 1938.

LOCAL AUTHORITY—COUNCILLOR'S RIGHT TO INSPECTION OF DOCUMENTS—ACTION AGAINST COUNCIL BY THIRD PARTY—REFUSAL TO ALLOW COUNCILLOR TO INSPECT DOCUMENTS RELATING TO ACTION—MANDAMUS—DISCRETION OF COURT.

Rule *nisi* granted at the instance of John Nicholas Patrick Conlan directed to the Mayor, Aldermen and Burgesses of the Borough of Barnes, calling upon them to show cause why a writ of mandamus should not issue directing them to produce to Conlan, a councillor of the Borough of Barnes, for his inspection, certain named documents.

Within the Borough of Barnes lie the grounds of the Ranelagh Club, owned by a company called the Ranelagh Club Limited. Before 1935 a question had arisen as to the future of those grounds. Discussions had taken place, and steps had been taken by the borough council in the direction of town-planning the grounds. On the 31st July, 1935, at a meeting of the council it was decided that an agreement between the council and the company with respect to the grounds should be entered into. The agreement was entered into on the 1st August, 1935. At that time Conlan was a member of the council. He had been present during the discussion of the agreement, but left the meeting before the vote upon this matter was taken. On the 5th February, 1938, an action was instituted against the council at the suit of the Attorney-General at the relation of the president of the Barnes ratepayers' association, for declarations (*inter alia*) that the agreement of the 1st August, 1935, and a supplemental agreement of the 24th January, 1936, were *ultra vires* the corporation and not binding upon them. It was resolved by eighteen votes to one that the town clerk be instructed to enter an appearance to the writ, that the town clerk be appointed solicitor to the corporation in the action, and that a special committee be set up to consider the whole matter, obtain counsel's opinion and to take the necessary steps to defend the action. Conlan, who was at that time chairman of the town planning committee of the council, declined to serve on the special committee. The special committee in due course instructed the town clerk to obtain the joint opinion and advice of two King's Counsel. The special committee resolved that, pending the receipt of counsel's opinion, the town clerk be instructed not to permit inspection of the documents submitted to counsel. On consideration of the opinion expressed by counsel, it was resolved that the action be defended. It was subsequently resolved that information concerning or relative to the action should not be given to individual members of the council except by way of reports of the special committee. Meanwhile, Conlan's solicitor had written making demands for information to be supplied to Conlan. which included, for example, a demand to see the draft case prepared for counsel before it was submitted. Counsel advised that the committee could properly refuse the requests made on behalf of Conlan, who accordingly obtained the present rule. *Cur. adv. vult.*

HUMPHREYS, J., delivering the judgment of the court, said that counsel showing cause against the rule had submitted that the documents in question were quite unnecessary to enable Conlan to fulfil any duties he might have as a councillor with regard to the defence of the action. As Lord Chelmsford said in *Reg.* v. *The Churchwardens of All Saints, Wigan*, 1 App. Cas. 620 it was in the discretion of the court whether or not a writ of mandamus should be granted. There was no dispute that the right of a councillor to inspect all documents in possession of the council existed so far as his access to the documents was reasonably necessary to enable him properly to perform his duties as a member of the council. That common law right of a councillor arose from his common law duty to keep himself informed of all matters necessary to enable him properly to discharge his duty as a councillor; but there must be some limit to that duty. "A councillor had no right to a roving commission to go and examine books or documents of a corporation because he was a councillor": see *R.* v. *Southwold Corporation*, 97 L.T. 431. Moreover, if the facts should disclose some indirect motive on the part of the prosecutor of the rule not consistent with the interests of the council as a whole, the court would rightly exercise the discretion referred to by Lord Chelmsford in the direction of refusing to compel the council to give disclosure. *R.* v. *Hampstead Borough Council, ex parte Woodward*, 33 T.L.R. 157, was a clear authority to that effect. In the judgment of the court it had not been established that Conlan had been prevented from carrying out any of his duties as a councillor by the failure to disclose the documents in question, and the interests of the council in the pending litigation might be prejudiced by their disclosure. The rule must be discharged.

COUNSEL: *Cyril Radcliffe*, K.C., and *Wilfrid Hunt*, showing cause; *D. N. Pritt*, K.C., and *J. A. Bell*, in support.

SOLICITORS: *Arthur C. Fox; Town Clerk, Barnes; William P. Webb.*

[Reported by R. C. CALBURN, Esq., Barrister-at-Law.]

Probate, Divorce and Admiralty Division.

Fassbender *v.* **Fassbender.**

Henn Collins, J. 5th May, 1938.

DIVORCE — RESTITUTION SUIT—WIFE PETITIONER — NO COHABITATION — HUSBAND'S REFUSAL TO PROVIDE MATRIMONIAL HOME—SUIT FOUNDED WITHOUT PRIOR COHABITATION—DECREE.

This was a wife's petition for restitution of conjugal rights. She alleged that the respondent had never cohabited with her,

and that he persistently refused to provide a matrimonial home without just cause. The respondent by his answer, denied that he had refused to provide a home without just cause, and alleged that the petition was not presented *bonâ fide*. It was conceded that the parties had never cohabited. Counsel on behalf of the respondent, in making a preliminary objection, submitted that the essence of a restitution suit was withdrawal from cohabitation. As both parties agreed that there had never been cohabitation, the suit was misconceived. A decree of restitution of conjugal rights ordered the respondent to return to the petitioner, not merely to go to the petitioner. The remedy was a restoration of rights which the petitioner had enjoyed, but of the enjoyment of which the petitioner had been deprived. The suit was for restitution, not institution of conjugal rights. Counsel on behalf of the petitioner submitted that the remedy sought was available, whether or not there had been cohabitation, provided that the respondent had refused to cohabit with the petitioner. There could be desertion although there had been no cohabitation. He referred to *Buckmaster* v. *Buckmaster* (1869), L.R. 1 P. & D. 713; *De Lambenque* v. *De Lambenque* [1899] P. 42; and *Brodie* v. *Brodie* [1917] P. 271; 62 Sol. J. 71.

Henn Collins, J., in giving judgment, said that he did not think that the objection taken was well-founded. The remedy succinctly called restitution of conjugal rights was rather more than the re-institution of something that had already been enjoyed. He thought that it really meant a suit to oblige one of the spouses to afford those matrimonial amenities which the marriage tie rendered obligatory. He did not think that it was a test of that that they should already have been enjoyed. That was the conclusion in *Buckmaster* v. *Buckmaster*, *supra*. In that case there never had been cohabitation. There it became necessary to see whether there had been desertion. There would have been desertion, but for the fact that the wife had agreed to accept £100 not to molest the husband. The agreement, having been made after marriage, was therefore not void in law. He, his lordship, was therefore of opinion that a suit for restitution, framed as the present one was, lay, although there had never been cohabitation between the spouses.

Counsel: *J. Serrell Watts*, for the petitioner; *John Latey* (with him *R. J. A. Temple*), for the respondent.

Solicitors: *Vivash Robinson & Co.*; *Beachcroft, Wakeford May & Co.*

[Reported by J. F. Compton-Miller, Esq., Barrister-at-Law.]

H— *v.* H—.

Sir Boyd Merriman, P. 23rd and 24th June, 1938.

Divorce—Wife's Petition for Dissolution on Ground of Cruelty—Earlier Defended Petition for Judicial Separation—Compromise of Earlier Suit by Deed Withdrawing all Charges—Petition Remaining on File—Identical Allegations in Both Petitions—Change in the Law—No Implied Condition for Termination in Compromise—Earlier Petition Dismissed—Later Petition Struck Out—Matrimonial Causes Act, 1937 (1 Edw. 8 and 1 Geo. 6, c. 57), s. 2.

This summons adjourned into court raised the question whether a petition by a wife for dissolution of marriage on the ground of cruelty could be presented having regard to the subsistence of a deed of separation between the parties, entered into by way of compromise of an earlier defended petition for judicial separation on the ground of cruelty, based on identical charges, which was still on the file of the court. By cl. 7 of the deed the petitioner withdrew all the charges of cruelty alleged by her in the petition and particulars.

Sir Boyd Merriman, P., in giving judgment, said that after execution of the deed of separation, the petition for judicial separation was not in fact taken off the file of the court. By the established practice it was impossible to have two petitions by a petitioner in respect of the same marriage at the same time and *a fortiori* when the two petitions dealt with the same subject-matter. It was not questioned that the petitioner gave her full consent to the terms of compromise, and there was the plainest agreement in the most categorical terms that all the charges in the petition were withdrawn. His lordship reviewed the decisions in *Rose* v. *Rose* (1883), 8 P.D. 98; *L.* v. *L.* [1931] P. 63; *Rowley* v. *Rowley* (1864), 3 Sw. & Tr. 338; (1866), L.R. 1 Sc. & Div. 63; and *Stanes* v. *Stanes* (1877), 3 P.D. 42, and continued that the substance of the matter was that once terms of that sort had been arrived at and made an order of court, and one party had refrained from going on with the charges and the other party had refrained from establishing his denial in face of the charges, then, in the absence of fraud or of some repudiation of the contract by one or the other, it was impossible for the court to allow those charges, identical in substance, to be revived for the purpose of further proceedings. That, in his, his lordship's, view, was the effect of the terms of compromise and of the deed, and it was conceded that all the terms of the agreement had been punctually observed. Assuming that to be so, it had been argued on behalf of the petitioner that nevertheless there must be an implied term in the agreement that when the law became changed by the Matrimonial Causes Act, 1937, enabling the petitioner for the first time to sue for dissolution of marriage on the ground of cruelty, the agreement should not survive so important a change in the law. It seemed to him a proposition the consequences of which it would be difficult to envisage to say that a contract of this kind solemnly entered into before the court contained the inherent imputation that, if at any future time, notwithstanding that the contract had been faithfully executed in the meantime, the law on the subject-matter were to be changed in a material respect, the contract *ipso facto* would come to an end. That doctrine assumed that it was an implied term of the contract that if the law was materially changed, the contract should become void, and not that the parties might elect to avoid it. That would be going a great deal further than any tribunal had yet gone in expounding the law of frustration of contract, and he, his lordship, was not prepared to say that such a position was inherent in this particular contract. His lordship referred to *Hyman* v. *Hyman* [1929] A.C. 601, 623, and to Earl Loreburn's speech in *Tamplin Steamship Company* v. *Anglo-Mexican Petroleum Products* [1916] 2 A.C. 397, at pp. 403, 404. He, his lordship, found it impossible to say that there was any implied term in the contract in the present case that, if the law were changed, say ten, twenty or thirty years later, in the sense in which it had been changed by the Matrimonial Causes Act, 1937, the whole contract was to be at an end without any further decision by the parties, but because of some term implied in the contract itself. The contract had been faithfully observed for some years, and he, his lordship, found some support for the view he was taking in *Goslin* v. *Clark* (1862), 12 C.B. (N.S.) 681, relating to the effects of the Matrimonial Causes Act, 1857, when judicial divorce was first introduced in England, although the analogy between the cases was not complete. His lordship directed that the petition for judicial separation be dismissed and that the subsequent petition be struck out.

Counsel: *Lord Reading*, K.C., and *Walter Frampton*, for the petitioner; *S. S. Karminski*, for the respondent.

Solicitors: *Theodore Goddard & Co.*; *Evans, Barraclough & Co.*

[Reported by J. F. Compton-Miller, Esq., Barrister-at-Law.]

During the Long Vacation Lincoln's Inn Library is open from 11 to 4 (Tuesdays 11 to 5, last week 10 to 4). It is closed every Saturday, August Bank Holiday, and 22nd to 31st August.

The Law Society.

FINAL EXAMINATION.

The following candidates (whose names are in alphabetical order) were successful at the Final Examination held on the 13th and 14th June, 1938 :—

Francis Louis Abbott, Samuel Abel, B.A., LL.B. Leeds, Colin Oliver Adams, Norman Keith Adams, Samuel Bernard Adler, John Fenwick Albert, William Henry Mooring Aldridge, M.A. Cantab., John Patrick Allen, Cecil Altman, George Alexander Arbuthnot, Peter King Archibald, Douglas Edward Thompson Argent, Lilian Mary Ashworth, Harry Christopher Askew, Ernest Aubrey Aspinwall, Robert Stephen Atherton, Douglas Atkinson, Thomas Lovell Avery, B.A. Oxon, Christopher Davidson Baily, Hubert Roy Baines, B.A. Cantab., Vaughan Herridge Baker, Leo Maria Ball, B.A. London, Geoffrey Walker Leigh Barlow, LL.B. Manchester, Gerald Victor Morrey Baxter, Tom Brian Baxter, Peter Gray Benham, B.A. Oxon, Jack Fitzroy Waters Bennett, Charles George Bennion, B.A. Cantab., Samuel Ezekiel Betesh, LL.B. Manchester, Angus Stevenson Binning, Leslie William Hadfield Birtwistle, Alfred Hall Blackmore, Sidney Bloch, Richard Walter Blott, Denis Henry Blunden, George Henry Boatte, Gordon Bone, Harry Bowden, James Gordon Bradshaw, Harold Alfred Broad, B.A. Cantab., William Colin Broadhead, LL.B. Leeds, John Maurice Howe Browne, B.A. Cantab., Eric Hervé Giraud Browning, B.A. Cantab., Thomas Nadauld Nugent Brushfield, Joseph Anthony Lionel Brutton, B.A. Cantab., Christopher Stewart Buckle, Edward Dudley Burgess, Mortimer Glynne Burnand, B.A. Cantab., Gilbert Herbert Stewart Butcher, Frederick Lawrence Byrne, John Coplestone Carter, B.A., LL.B. Cantab., Lawrence Henderson Cartwright, Ernest John Dennis Cave, Robert Everard Chadwick, LL.B. Leeds, Richard Chamberlain, B.A. Cantab., Essex Trevelyan Channell, John Pendrill Charles, B.A. Cantab., Lionel Francis Church, Donald Walter Trevelyan Clark, Reginald Christie Clements, LL.B. Durham, William James Porteous Clements, B.A. Oxon, Kenneth Richard Joseph Cliff, LL.B. Birmingham, Edwin Morris Cockburn, Mordaunt Cohen, Christopher Gordon Colclough, B.A. Cantab., Thomas Herbert Gaitskell Coleman, John Ambrose Collard, B.A. Oxon, Walsingham John Hamilton Collinge, B.A. Oxon, David John Coward, Albert Edward Cox, John Waymouth Crabb, Bertram Fred Jeffries Crowder, Norman Ronald Aubrey Crowe, Arthur Bernard Crowther, Leslie Gordon Cullen, Christopher James York Dallmeyer, Thomas Daly, Leonard Allan Darke, Anthony D'Oyly Elliot Daunt, Patrick George Bryan Daunt, B.A. Oxon, Lester Davidson, LL.B. Liverpool, William Daniel Davies, Walter Patrick Carless Davis, B.A. Oxon, Alan Graham Dawtry, LL.B. Sheffield, Eric Sidney Diplock, John Oliver Dixon, Peter Cory Dixon, B.A. Liverpool, Arthur Ernest Dobbs, LL.B. Birmingham, John Sherwood Dodd, Edmund James Downs, LL.B. London, Edward Maurice Drake, Kenneth Buckley Drennan, Norman Clifton Halliday Dunbar, Arthur Duschinsky, B.A. Oxon, Kenneth Taylor Dyson, LL.B. Manchester, John Eastwood, Frank Charles Eaton, Logan Andrew Edgar, Philip Noel Edgecombe, B.A. Oxon, Arthur Harold Manners Edney, Arthur John Edwards, Barnet Ellis, B.A. Oxon, Mary Patricia Luya Ellis, LL.B. Liverpool, Roland Hubert Wyburne Ellis, B.A., LL.B. Cantab., Frank William Elworthy, B.A., LL.B. Cantab., Sidney Epstein, John Arnott Esam, B.A. Cantab., Alan Lewis Evans, Kenneth Evans, B.A. Oxon, Colin Stevenson Fairbrother, B.A. Oxon, Guy Frederick Farr, Basil Guthrie Firth, Robert Seymour Forster, Donald Levick French, Anthony Lewis Friedberg, Simon Galinski, Jack Gartside, LL.B. Manchester, Edward Joseph Gibbons, Lorna Joan Gibson, Frank Gittins, Jack Gledhill, LL.B. Leeds, Samuel Stanley Globe, B.A. Oxon, Reginald Marcus Godman, Julian Samson Goldstone, William Henry Goudie, Robert Henry Gould, B.A., LL.B. Cantab., Kenneth Selman Graham, LL.B. London, Lucie Marguerite Grant, William Henry Grant, Richard Grindal Gray, Clair Mansell Maybury Grece, B.A. Oxon, Anthony Green, Maurice Campbell Green, Ashley Martin Greenwood, B.A. Cantab., George Ernest Cleveland Gregor, B.A. Cantab., John Bealey Griggs, Geoffrey Herbert Hall, John Hall, Victor Desire Michael Hall, Paul Trevor Hamer, LL.B. London, Ralegh Orme Hancock, George Walker Hanson, LL.B. Leeds, George Hugh Harland, B.A. Oxon, Aubrey James Harper, Brian Thomas Cuthbert Harrison, B.A. Cantab., Maurice Stanley David Hart, William Jerome Healy, B.A. Cantab., John Malcolm Hepburn, B.A. Cantab., Richard Foster Heron, B.A., LL.B. Cantab., Arthur Carleton Hetherington, Henry Reynardson Hewlett, Frank Higgins, Edward Henry Hill, Kenneth Stephenson Himsworth, B.A. Cantab., Edgar Heath Hiney, Philipp Hirschfeld, Charles Robert Eric Walford Hoffgaard, John Holdron, LL.B. Leeds, Alec Frederick Holloway, Frederic Thomas Horne, John Grosvenor Horton, Charles Jeyes Hunt, B.A., Oxon, Desmond Saville Hunter, Geoffrey Allison Hurst, Geoffrey William Huzzey, B.A. Oxon, Mervyn Arthur Jermyn Hynes, B.A. Cantab., Cecil Joshua Israel, B.Com., B.Sc. London, David Gray Jackson, Geoffrey Hippolyte Jacobs, John Hele Johnson, B.A. Oxon, Alan Hackett Jones, Clement Owen Jones, LL.B. Wales, Frank Jones, Ilston Percival Llewellyn Jones, John Eryl Owen Jones, B.A. Cantab., LL.B. Wales, Noel Bancroft Kay, Eric Saxon Kearsley, Archibald Whitfield Keith-Steele, M.A. Oxon, Gerald Austin Kemp, George Vicary Kenyon, Arthur Leslie King, Walter Kraft, LL.B. London, Alan Lambert, LL.B. Manchester, Horace William Langdale, Michael Charles Selfe Langdon, John Richard Lawson, David Gregory Lea, LL.B. London, Derek Godfrey Leach, Norman Lees, Geoffrey Tom Le Lacheur, Abraham Arnold Lever, LL.B. Sheffield, Edward Axford Lewis, B.A., LL.B. Cantab., John Wilfred Thomas Lilley, B.A. Cantab., George Humphrey Lillies, James Cuthbert Lindsell, B.A. Cantab., Norman Lipman, Thomas Metcalfe Lister, LL.B. Manchester, William Edmund Littlewood, Eric Edward Wynn Lloyd-Jones, Peter Francis George Lomax, B.A. Cantab., Alexander Kenneth Stebbing McCurdy, Arthur Edward McKenna, Angus Ferguson MacLeod, M.A. Glasgow, Sidney Leonard Vikerman Mainprise, M.A. Cantab., Roger Sydenham Marshall, Guy Meredith Myles Mathews, Edwin James Thomas Matthews, Thomas Gabriel Matthews, B.A. Cantab., Harry Melling, John Grenville Meryon, Donald Field Metcalfe, John Tetley Milnes, B.A. Oxon, Christopher John Mount, B.A. Oxon, John Letten Mountain, B.A. Cantab., Gilbert Henry Francis Mumford, Donald Edward Munro, B.A. Cantab., William Shirley Munro, Alfred Dennis Murfin, John Marcus Neal, Hugh Cowan Neilson, B.A. Cantab., John Horace New, Rowland Newnes, John Arthur Nicholson, Philip Niman, Godfrey Lushington Norris, B.A. Oxon, George Norton, LL.B. London, Maurice Joseph O'Connor, Henry Rowell Oliver, John Henry Oliver, Cecil John Mannaton Ommanney, B.A. Oxon, Daniel Orme, B.A. Cantab., Reginald Hambleton Ormerod, Robin Henry Palmer, John Edwin Peake, Harry Cuthbert Pearce, LL.B. London, Hugh Christopher Russel Pearson, B.A. Oxon, William Muspratt Permewan, B.A., LL.B. Cantab., Frank Coningsby Phoenix, John Rea Poole, M.A. Cantab., John Sinclair Pope, B.A. Oxon, Edmund Onslow Powell, John Hinton Powell, B.A. Cantab., Leslie Arthur Cottrell Pratt, LL.B. London, John Latham Press, B.A. Oxon, Denis Lewin Price, Mervyn Preece Prichard, Hugh Paul Ridgman Prisk, Stanley Llewelyn Prothero, Ronald Fairfax Pugh, B.A. Cantab., Michael Anthony Pybus, B.A. Cantab., John Everard Bruce Rae, Alfred John Vincent Ramage, Arthur Victor Ratcliff, B.A. Oxon, Alfred Reed, Joseph Robert Reeve, LL.B. London, David Reid, B.A. Cantab., Frank Alick Rennison, LL.B. Sheffield, William Richard Renshaw, John Cecil Richards, LL.B. Liverpool, Marcell William Vellacott Richards, Leslie Ernest Riches, Thomas Abraham Riches, LL.B. London, Harold Arthur Riley, James Hardman Rimmer, LL.B. Manchester, Frederick Harrod Rodgers, LL.B. Liverpool, Vernon Watson Rogers, LL.B. Leeds, David Robert Anidjar Romain, B.A. Cantab., Harry Rose, John Paul Beverley Ross, B.A. Cantab., Ernest John Routly, B.A. Cantab., Harry Bernard Sacker, B.A. Oxon, Louis Edwin Samuel, David John Savin, B.A. Oxon, Donald Hugh Sawday, Jack David Scott, LL.B. London, John Murray Scott, Gordon Patrick Edwin Sealy, Harry Charles Seigal, B.A. Oxon, Alan John Shay, John Gordon Shergold, LL.B. London, Maurice Henry Sherley-Price, Edmund Morland Shewell, Thomas Herbert Sills, Kenneth Frederick Simpson, Philip Arthur Simpson, Stephen Cuthbert Samuel Skene, Leslie Patrick David Small, Colin William Smettem, Basil Gerrard Smith, B.A. Oxon, Edwin Cave Smith, Frederic Ernest Smith, Malcolm Alan Peel Smith, LL.B. London, Ralph Reckitt Smith, Henry Soden-Bird, LL.B. Durham, Charles Ronald Sopwith, George South, Frederick Peter Standley, Walter Harold Arthur Oscar Alois Stein, B.A. Cantab., B.A. London, Cyril James Shirley Stokes, Cyril Gordon Stow, B.A. Oxon, Anthony Frank Street, Gershon Gerald Strong, LL.B. Liverpool, Archibald Geoffrey Stubbs, Ernest Leopold Sumner, Alfred Swales, Alan Herbert Illingworth Swift, B.A., LL.B. Cantab., Eric Bruce Swinbanks, Miles Foxley Tabor, B.A. Cantab., Peter Henri Talbot, Maurice Aaron Tarlo, Thomas Taylor, LL.B. Manchester, Moses Isaac Temkin, LL.B. London, John Lowell Tetlow, Cecil Mark Thain, John Stuart Hamilton Thomas, LL.B. Wales, Anthony Sigston Thompson, B.A. Cantab., Robert Ribblesdale Thornton, B.A., LL.B. Cantab., Joseph Leslie Thorpe, William Kenneth Graham Thurnall, Saul Topperman, James Andrew Townsend, B.A. Cantab., Norman Henry Turner, Robert Elwyn Turner, Horace Edward Unicume, Donald Trelawney Veall, Hugh Arthur James Walton, Edward Rayner Dreyer Warburg, Cyril Randolph Ward,

Thomas Hardy Waterhouse, B.A., LL.B. Cantab., George Ainsworth Wates, B.A. Cantab., Geoffrey William Mitchell Watmough, B.A. Cantab., Bertram Webster, B.A., LL.B. Cantab., Clifford Hallifax Wells, John Hyde West, B.A., LL.B. Cantab., Fred Wheatley, LL.B. London, Arthur Reynolds Killingworth White, Clifford George White, Marjorie Mavis White, Ronald Cuthbert White, B.A. Oxon, William Stanley White, LL.B. London, Ivor John Whitehead, Robert Grimshaw Whitehead, B.A. Oxon, James Patrick Dymond Wild, B.A. Cantab., Lawrence John Wildman, Roger Wilkinson, B.A. Cantab., Birkett Bell Williams, David William Peter Williams, Owen Emrys Williams, LL.B. Manchester, Robert Leslie Williams, Philip Cooper Winter, LL.M. Liverpool, Stanley Wise, John Wentworth Wood, LL.B. Leeds, John Nicholas Woodbridge, B.A., LL.B. Cantab, Sydney Charles Wooderson, Oliver Heighes Woodforde, Henry Woodhouse, B.A. Oxon, Douglas Mowbray Woodward, Rowland Ernest Woodward, LL.B. Liverpool, Douglas Leslie Wright, B.A. Oxon, Francis William Wright, Peter Basil Wright, Peter Yates, LL.B. Manchester, Stephen Naunton Young, B.A. Cantab.

No. of candidates, 515. Passed, 363.

The Council have awarded the following Prizes: To Henry Woodhouse, B.A. Oxon, who served his Articles of Clerkship with Mr. Herbert William Lyde, of the firm of Messrs. G. T. Smith & Lyde, of Birmingham, the Edmund Thomas Child Prize, value about £21; and to Charles Ronald Sopwith, who served his Articles of Clerkship with Mr. Cyril Hampton Vick, of London, the John Mackrell Prize, value about £10.

PRELIMINARY EXAMINATION.

The following candidates (whose names are in alphabetical order) were successful at the Preliminary Examination held on the 6th and 7th July, 1938:—

Geoffrey Thyne Valentine Archer, Cecil Bance, Joseph Ronald Barker, John Herbert Booth, Henry William Bridge, Arthur Leonard Burford, Arthur George Chamberlin, Emrys Tom Chivers, John Harston Cliff, Stephen Helier Cruttwell, John Patrick De Burgh, John Kenneth Dodds, Thomas Eland, David Gwynne Morris Evans, Ivy Louisa Gibson, Kenneth Rowland Gray, Rex Guillaume, Dennis Herbert Gwynne, Clive Fletcher Hempson, John Alan Hicks, Philip Johnston Hopkin, Robert Dodson Hurst, James Stuart Hilliard Johnson, Charles Parnell King, Lionel George Levy, Albert Henry Lines, David John Loader, Ernest Jack Lowman, Alexander Donald McKerrow, Charles Douglas Mason, Robert Donald Mason, Roy Alfred Neave, Leonard Pattinson, Harold Race, Peter Alfred Rees, Francis Harrold Robinson, Peter Royle, Ronald James Saunders, Leonard Harold Sharpe, Tony Silverman, Stanley Jackman Smith, Stephen Hartley Stansfield, Russell Frederick Syder, Geoffrey John Taylor, Kenneth James Tetley, Hugh Murray Chatham Walker, George Samuel Wall, Eric James Waller, Alfred James Whittall, Roy Stanley Wildman, Trevor Ogden Wood, Doris May Worrall.

No. of candidates, 98. Passed, 52.

Societies.

Society of Public Teachers of Law.

ANNUAL MEETING.

The Thirtieth Annual Meeting of the Society of Public Teachers of Law was held at Cambridge, on the invitation of the Faculty of Law, on 13th and 14th July.

At the opening session, Mr. H. A. HOLLOND, Reader in English Law at Cambridge, chose as the subject for his Presidential Address, "Legal Education: Prospect and Retrospect." He called attention to the change in the character of lectures which has taken place in modern times, dictation being superseded by exposition. He pointed out that the use of the method of lecturing, conventional in most subjects, is open, in the case of law, to two objections, first, that the student, particularly if he is a slow writer, does not necessarily have before him in exact form the text of the statute or legal principle which is being expounded, and, secondly, that it is difficult to combine the assimilation, even partial, of new matter with the taking of full notes. He claimed advantages for the method which he had evolved of supplying in printed or typewritten form the text of the legal principles or statutory provisions which he was about to expound, and the facts of illustrative cases (without solutions).

Mr. HOLLOND ended with a tribute to those leaders of the profession, solicitors, barristers and judges, who believe in legal education, who share the ideals of teachers, and have been lavish with encouragement and help in the furtherance of their efforts.

Mr. P. A. LANDON, Trinity College, Oxford, read a paper at the second session entitled "Six years after: *Donoghue* v. *Stevenson* in perspective." He maintained that the wide proposition first put forward by Lord Atkin in that case was inconsistent with authority and, if applied in practice, would lead to absurd results. The true *ratio decidendi* was the narrower view, accepted by all three of the Law Lords who formed the majority, that when a manufacturer sells goods in such a condition as to exclude possibility of intermediate examination, he owes a duty to ultimate consumers to exercise due care in their manufacture.

At the third session, three papers on the effect on law teaching of the development of administrative law were considered. Dr. W. IVOR JENNINGS (London), Dr. W. A. ROBSON (London), and Dr. E. C. S. WADE (Cambridge), considered its effect on the teaching of public law. They suggested that the more important principles of administrative law, such as those governing the organisation and operation of administrative authorities, the doctrines of *ultra vires* and natural justice, and the methods by which the civil courts and administrative tribunals control administrative authorities, should be a compulsory part of any legal training, and should therefore be taught as part of, or in close association with, the course on constitutional law.

How far administrative land law, or what might be called the public law of property, should be taught in a course on land law, was considered by Mr. A. D. HARGREAVES (Birmingham). Subjects like housing and town and country planning, he considered, were of great importance, not only academically, but also to the practitioner.

Professor R. A. EASTWOOD and Mr. B. A. WORTLEY (Manchester) considered the effects of the development of administrative law on the teaching of the law of contract. The law of contract does not now deal primarily with the relations between individuals. Large scale enterprises have profoundly modified economic life, and statutory monopolies and administrative regulation have severely limited freedom of contract. Changes must be indicated to the student if he is not to receive a completely false notion of the law actually in existence.

At the Annual General Meeting reference was made to the acknowledgment by the Lord Chancellor of the interest taken by the Society to secure the further consideration of the proposal for the establishment of the Institute of Legal Research, which is now under consideration by the committee presided over by Lord Macmillan and composed of members and honorary members of the Society. Professor EDWARD JENKS moved a vote of thanks to Dr. E. C. S. Wade (University of Cambridge), who has retired from the Hon. Secretaryship which he has held since 1925.

The following officers were elected for 1938–39: President, Dr. G. R. Y. Radcliffe (The Law Society's School of Law); Vice-President, Professor F. Raleigh Batt (University of Liverpool); Hon. Treasurer, Mr. F. A. Landon, (University of Oxford and The Law Society's School of Law) re-elected; Hon. Secretary, Mr. D. J. Llewelyn Davies (University of Birmingham).

A reception was given by the Faculty of Law in the Old Schools during the afternoon of the first day. The annual dinner of the Society was held in the Hall of Trinity College. The speakers in addition to the President were Lord Wright and Mr. Justice Langton. The guests included the Vice-Chancellor (Dr. H. R. Dean, Master of Trinity Hall), Professor Edward Jenks, Professor P. Collinet (University of Paris), Professor C. Burdick (University of Cornell), Professor Goebel (University of Columbia), Professor Millar (North-Western University, Chicago), Judge Lawson-Campbell, and His Honour H. G. Farrant.

The meeting ended with a luncheon given by the Master and Fellows of Trinity College, at which the Vice-Master (Mr. D. A. Winstanley) presided.

The annual meeting of the Society for 1939 will be held in Edinburgh on the invitation of the University and the Faculty of Laws.

The Hardwicke Society.

A meeting of the Society was held on Friday, 15th July, in the Middle Temple Common Room, the President, Mr. G. E. Llewellyn Thomas in the chair. Mr. R. N. Hales moved: "That the A.R.P. scheme is a further example of Governmental inefficiency." Mr. Martin Woodroffe opposed. There also spoke Mr. R. McCready, Capt. W. R. Starkey, Mr. A. C. Douglas, Mr. Lawrence Travers, Dr. Regendanz, Mr. N. N. McKinnon. The Hon. Mover having replied, the House divided, and the motion was carried by two votes.

Gloucestershire and Wiltshire Incorporated Law Society.

The annual meeting of this Society was held at Salisbury on 15th July, under the chairmanship of the President, Mr. R. J. Mullings, of Cirencester. There were a large number of members present. After the minutes of the last annual meeting had been read and confirmed, the annual report and accounts were received and adopted. Mr. E. Sant, of Salisbury, was elected President, and Mr. G. T. Wellington, of Gloucester, Vice-President for the ensuing year. The General Committee, Library Committee and Poor Persons Cases Committee were appointed. Charitable grants amounting to £21 were voted, and also a donation of £21 to the funds of the Solicitors' Benevolent Association. The membership of the Society is now 174.

Solicitors' Benevolent Association.

The monthly meeting of the Directors was held at 60 Carey Street, W.C.2, on Wednesday, 6th July. Mr. F. L. Steward (Wolverhampton) was in the chair, and the following Directors were present: Mr. H. F. Plant (Vice-Chairman), Sir Norman Hill, Bart., Mr. G. L. Addison, Mr. E. E. Bird, Mr. G. C. Blagden, Mr. W. E. M. Blandy (Reading), Mr. P. D. Botterell, C.B.E., Mr. G. K. Buckley (Preston), Mr. A. J. Cash (Derby), Mr. J. Cherry, Mr. T. G. Cowan, Mr. C. H. Culross, Mr. T. S. Curtis, Mr. G. C. Daw (Exeter), Mr. W. H. Day (Maidstone), Mr. W. P. David (Bridgend), Mr. G. Keith, Mr. C. G. May, Mr. F. S. Stancliffe (Manchester), Mr. H. White (Winchester) and the Secretary. £2,191 was distributed in grants to necessitous cases and seventy-eight new members were elected.

Parliamentary News.

Progress of Bills.

House of Lords.

Administration of Justice (Miscellaneous Provisions) Bill.
Commons Amendments considered. [25th July.

Anglo-Turkish (Armaments Credit) Agreement Bill.
Read Third Time. [25th July.

Bacon Industry Bill.
Read Third Time. [25th July.

British Nationality and Status of Aliens Bill.
Motion for Second Reading withdrawn. [25th July.

Chichester Corporation Bill.
Commons Amendments considered. [21st July.

Chimney Sweepers Acts (Repeal) Bill.
Read Third Time. [21st July.

Collecting Charities (Regulation) Bill.
Reported without Amendment. [22nd July.

Destructive Animals Bill.
Read First Time. [25th July.

Finance Bill.
Read Third Time. [25th July.

Fire Brigades Bill.
Read Third Time. [25th July.

Food and Drugs Bill.
Commons Amendments considered. [21st July.

Gateshead and District Tramways and Trolley Vehicles Bill.
Commons Amendments agreed to. [22nd July.

Holidays with Pay Bill.
Read Third Time. [27th July.

Imperial Telegraphs Bill.
Read Third Time. [21st July.

Ipswich Corporation (Trolley Vehicles) Provisional Order Bill.
Read Third Time. [21st July.

Island of Arran Piers Order Confirmation Bill.
Read Third Time. [25th July.

Isle of Man (Customs) Bill.
Read Third Time. [27th July.

Land Drainage Provisional Order (Louth Drainage District) Bill.
Read Third Time. [26th July.

Local Government (Hours of Poll) Bill.
Read Third Time. [25th July.

Middlesex County Council (General Powers) Bill.
Commons Amendments agreed to. [27th July.

Milk (Extension and Amendment) Bill.
Read Third Time. [25th July.

Ministry of Health Provisional Order (Mid-Staffordshire Joint Hospital District) Bill.
Read Second Time. [21st July.

Naval Discipline (Amendment) Bill.
Read Third Time. [26th July.

Newcastle-upon-Tyne Corporation (Trolley Vehicles) Provisional Order Bill.
Read Third Time. [21st July.

Nottingham Corporation Bill.
Commons Amendments agreed to. [27th July.

Penzance Corporation Bill.
Commons Amendments agreed to. [27th July.

Pier and Harbour Provisional Order (Plymouth) Bill.
Read Third Time. [21st July.

Rating and Valuation (Air-Raid Works) Bill.
Read Third Time. [27th July.

Rating and Valuation (Air-Raid Works) (Scotland) Bill.
Read Third Time. [27th July.

Salford Corporation Bill.
Commons Amendments agreed to. [27th July.

Stanmore Unused Burial Ground Bill.
Commons Amendments agreed to. [22nd July.

Stockton-on-Tees Corporation Bill.
Commons Amendments agreed to. [27th July.

Supreme Court of Judicature (Amendment) (No. 2) Bill.
Read Third Time. [27th July.

Wear Navigation and Sunderland Dock Bill.
Commons Amendments agreed to. [22nd July.

West Midlands Joint Electricity Authority Provisional Order Bill.
Read Third Time. [21st July.

West Yorkshire Gas Distribution Bill.
Commons Amendments agreed to. [27th July.

Young Persons (Employment) Bill.
Commons Amendments agreed to. [26th July.

House of Commons.

Air Advertisements Bill.
Read First Time. [27th July.

Brighton Corporation (Transport) Bill.
Lords Amendments agreed to. [26th July.

British Museum Bill.
Read Third Time. [22nd July.

Canterbury Gas and Water Bill.
Lords Amendments agreed to. [26th July.

Consolidated Fund (Appropriation) Bill.
Read Second Time. [27th July.

Green Belt (London and Home Counties) Bill.
Lords Amendments agreed to. [26th July.

Guildford Corporation Bill.
Lords Amendments agreed to. [25th July.

Justices of the Peace (Scotland) Bill.
Read First Time. [27th July.

Lancashire County Council (Rivers Board and General Powers) Bill.
Read Third Time. [25th July.

Law of Libel (Amendment) Bill.
Read First Time. [25th July.

Lee Conservancy Catchment Board Bill.
Lords Amendments agreed to. [26th July.

London County Council (Tunnel and Improvements) Bill.
Lords Amendments agreed to. [22nd July.

London Passenger Transport Board Bill.
Lords Amendments agreed to. [26th July.

Middlesex County Council (Sewerage) Bill.
Lords Amendments agreed to. [26th July.

Ministry of Health Provisional Order (Bucks Water Board) Bill.
Lords Amendments agreed to. [21st July.

Newcastle and Gateshead Waterworks Bill.
Lords Amendments agreed to. [22nd July.

Nursing Homes Registration (Scotland) Bill.
Lords Amendments agreed to. [26th July.

Prevention of Fraud (Investments) Bill.
Read First Time. [26th July.

Prohibition of Vivisection on Dogs (Scotland) Bill.
Read First Time. [26th July.

Public Health (Coal Mine Refuse) Bill.
Withdrawn. [26th July.

Tatton Estate Bill.
Read Third Time. [25th July.

Warrington Corporation Water Bill.
Read Third Time. [25th July.

Workington Corporation Bill.
Lords Amendments agreed to. [26th July.

Rules and Orders.

SUPREME COURT OF JUDICATURE (CONSOLIDATION) ACT, 1925.

DRAFT ORDER ENTITLED THE DISTRICT PROBATE REGISTRIES ORDER, 1938.

Whereas by the Statute 15 and 16 Geo. 5, Ch. 49 (Supreme Court of Judicature (Consolidation) Act, 1925) Section 108 subsection (3) it is provided that the President of the Probate Division may from time to time, with the concurrence of the Lord Chancellor and the Treasury, by order modify or vary the Second Schedule to the said Statute, such Schedule being entitled "Scheme for Establishment of District Probate Registries," and whereas it is further provided in the said subsection of the said Statute that before any order is made under the said subsection a draft thereof shall be laid before both Houses of Parliament and the order shall not be made unless both Houses by resolution approve the draft either without modification or addition or with modifications or additions to which both Houses agree, and on the draft being so approved the order may be made in the form of the draft as approved:—

Now I, the Right Honourable Sir Frank Boyd Merriman, President of the said Probate Division, with the concurrence of the Lord Chancellor and the Treasury, do make the following order, to be laid in draft as aforesaid before both Houses of Parliament, that the Scheme for Establishment of District Probate Registries as contained in the said Second Schedule to the said Statute be varied and that for the said Scheme the Scheme following be substituted:—

SUPREME COURT OF JUDICATURE (CONSOLIDATION) ACT, 1925. SECOND SCHEDULE.

SCHEME FOR ESTABLISHMENT OF DISTRICT PROBATE REGISTRIES.

Group	*Registries*	*Sub-registries.*
1	Newcastle	
	Durham	
2	Leeds	
	Sheffield	
	York	
	Wakefield	
3	Lancaster	
	Carlisle	
4	Manchester	
5	Liverpool	
	Bangor	
6	Chester	St. Asaph
	Bangor	Shrewsbury
7	Nottingham	
	Lincoln	Derby
	Leicester	
8	Norwich	
	Peterborough	
	Ipswich	
9	Birmingham	Northampton
10	Oxford	
11	Cardiff or Llandaff	
	Carmarthen	
12	Bristol	Hereford
	Gloucester	
13	Exeter	
14	Bodmin	
15	Southampton	Salisbury
	Winchester	
16	Lewes	

Notes.

1. The place first mentioned in the second column of the foregoing Table in relation to each group shall be the chief registry of the group, and the registrar of that place shall by virtue of his office be the registrar of the other registries and of any sub-registries in the group.

2. If the President of the Probate Division, with the concurrence of the Lord Chancellor and the Treasury, and after consultation with the Council of the Borough of Cardiff, thinks fit so to direct, Llandaff shall be substituted for Cardiff as the chief registry of Group 11.

3. In addition to the places mentioned in the third column of the said Table, there shall be a district probate sub-registry at Canterbury, which shall be under the management of the principal probate registry.

4. As to Group 2, in the event of a registry being established at Leeds or Sheffield or both places, the registry at Wakefield would be discontinued.

As to Group 15, in the event of a registry being established at Southampton, the registry at Winchester would be discontinued.

Long Vacation, 1938.

HIGH COURT OF JUSTICE.

NOTICE.

During the Vacation, up to and including Wednesday, 31st August, all applications "which may require to be immediately or promptly heard," are to be made to the Hon. Mr. Justice MORTON.

COURT BUSINESS.—The Hon. Mr. Justice MORTON will, until further notice sit in Chancery Court II, Royal Courts of Justice at half-past 10, on Wednesdays, commencing on Wednesday, 3rd August, for the purpose of hearing such applications of the above nature, as, according to the practice in the Chancery Division, are usually heard in Court.

PAPERS FOR USE IN COURT.—CHANCERY DIVISION.—The following Papers for the Vacation Judge are required to be left with the Cause Clerk in attendance at the Chancery Registrar's Office, Room 136, Royal Courts of Justice, before 1 o'clock, two days previous to the day on which the application to the Judge is intended to be made:—

1.—Counsel's certificate of urgency or note of special leave granted by the Judge.

2.—Two copies of notice of motion, one bearing a 5s. impressed stamp.

3.—Two copies of writ and two copies of pleadings (if any).

4.—Office copy affidavits in support, and also affidavits in answer (if any).

No Case will be placed in the Judge's Paper unless leave has been previously obtained or a Certificate of Counsel that the Case requires to be immediately or promptly heard, and stating concisely the reasons, is left with the papers.

N.B.—Solicitors are requested when the application has been disposed of, to apply at once to the Judge's Clerk in Court for the return of their papers.

URGENT MATTERS WHEN THE JUDGE IS NOT PRESENT IN COURT OR CHAMBERS.—Application may be made *in any case of urgency* to the Judge personally (if necessary), or by post or rail, prepaid, accompanied by the brief of Counsel, office copies of the affidavits in support of the application, and also by a Minute, on a separate sheet of paper, signed by Counsel, of the order he may consider the applicant entitled to, and also an envelope, sufficiently stamped capable of receiving the papers, addressed as follows:—"Chancery Official Letter: To the Registrar in Vacation, Chancery Registrar's Office, Royal Courts of Justice, London, W.C.2."

The address of the Vacation Judge can be obtained on application at Room 136, Royal Courts of Justice.

CHANCERY CHAMBER BUSINESS.—The Chancery Chambers will be open for Vacation business on Tuesday, Wednesday, Thursday and Friday in each week, from 10 to 2 o'clock.

KING'S BENCH CHAMBER BUSINESS.—The Hon. Mr. Justice MORTON will sit for the disposal of King's Bench Business in King's Bench Judge's Chambers at half-past 10 on Tuesday in each week.

PROBATE AND DIVORCE.—Summonses will be heard by the Registrar at the Principal Probate Registry, Somerset House, every day during the Vacation at 11.15 (Saturdays excepted).

Motions will be heard by a Registrar on Wednesdays, the 10th and 24th August, and the 7th and 21st September, and the 5th October, at the Principal Probate Registry at 12.15.

Decrees will be made absolute on each Wednesday during the Vacation, except Wednesday the 3rd August.

All papers for making Decrees absolute are to be left at the Contentious Department, Somerset House, on the preceding Thursday, or before 2 o'clock on the preceding Friday. Papers for Motions may be lodged at any time before 2 o'clock on the preceding Friday.

The Offices of the Probate and Divorce Registries will be opened at 10 a.m. and closed at 4 p.m. except Saturdays, when the Offices will be opened at 10 a.m. and closed at 1 p.m.

CHANCERY REGISTRAR'S OFFICE.
Royal Courts of Justice,
Room 136.

Legal Notes and News.

Honours and Appointments.

The Board of Trade have appointed temporarily Mr. REGINALD JOHN NEVILL CLEAN, to be Official Receiver for the Bankruptcy District of the County Courts holden at Cambridge, Peterborough and Kings Lynn, with effect from the 12th July, 1938.

Mr. R. H. ADCOCK, Deputy Town Clerk, has been recommended for the post of Town Clerk of Manchester in succession to Mr. F. E. WARBRECK HOWELL, who has been appointed Joint General Manager of the Halifax Building Society. Mr. Adcock was admitted a solicitor in 1923.

Mr. DAVID MCINTOSH, solicitor and notary public, has been appointed Clerk of the Peace for the County of Dumbarton in place of the late Mr. John William Laird Craig.

Mr. A. R. BLACKBURN, LL.B., of 38/39, Bedford Row, who obtained First Class Honours and was awarded the New Inn Prize in the June, 1937, Solicitors Honours Examination, and Mr. F. A. VALLAT, B.A., LL.B. (of Gray's Inn, Barrister-at-Law), have been appointed as Tutors at The Law Society's School of Law.

Professor ARTHUR LEHMAN GOODHART, M.A., LL.M., LL.D., D.C.L., has been elected an Honorary Bencher of the Honourable Society of Lincoln's Inn. Professor Goodhart was called to the Bar by the Inner Temple in 1919 and has been Professor of Jurisprudence at Oxford since 1931.

Notes.

Gray's Inn Library will be open during the Long Vacation as follows: 2nd to 31st August, 10 a.m. to 2 p.m. (closed on Saturdays and Bank Holiday); 1st to 30th September, 10 a.m. to 4 p.m., Saturdays, 10 a.m. to 1 p.m.

The following awards have been made in the Faculty of Laws at University College: English Law—Hurst Bequest Essay Prizes: D. Sacker and C. H. G. Wood. Jurisprudence—Joseph Hume Scholarship: D. Sacker.

The Right Hon. Sir Lyman Poore Duff, G.C.M.G. (Chief Justice of Canada), is returning to Canada after a stay of a month, during which he has been sitting as a member of the Judicial Committee of the Privy Council.

The Council of the Magistrates' Association have passed a resolution expressing the opinion that whenever an applicant for matrimonial relief shows a *prima facie* case a summons should be granted before the parties are invited to see the probation officer or other social worker.

The High Sheriff of Kent (Major M. Teichman-Derville) and several former high sheriffs have presented a gold cigarette case and under-sheriff's badge to Mr. W. H. Whitehead, who has completed twenty-one years as Under-Sheriff of Kent. Mr. Whitehead was admitted a solicitor in 1899.

Liverpool Chamber of Commerce Council recently passed a resolution calling the attention of the Government to the continuous congestion at Liverpool and Manchester Assizes and requesting that early steps be taken to remedy the present unsatisfactory state of affairs. Mr. Arthur Dean, Chairman of the Commercial, Law and Parliamentary Committee, said that there was a demand for the appointment of more permanent judges.

On Wednesday, 27th July, at the sixty-first annual meeting of the American Bar Association, at Cleveland, Ohio, Lord Macmillan delivered an address on "Education for the Law." In the course of this he described the inadequacy of his own legal education at the time when he first adopted the law as a profession, and said that in England a decay in the actual teaching of the law had set in when books began to take the place of lectures and legal leaders began to be too busy to do anything except practise law. Lord Macmillan then showed what had been done in recent times to provide adequate means for post-graduate legal study in England, and reminded his hearers that he himself had been appointed chairman of the Lord Chancellor's Committee set up in May last to advise how best to carry into effect the recommendations to that end made by Lord Atkin's Committee formed in 1932.

Wills and Bequests.

Mr. James Frederick Haynes Atkey, solicitor, of Park Place, S.W., left £14,208, with net personalty £13,870.

Mr. Archibald Harry Bailey, retired solicitor, of Tunbridge Wells, left £19,169, with net personalty £19,020.

Mr. Cecil Maurice Chapman, retired Metropolitan Police Magistrate, of Roehampton, left £9,205, with net personalty £8,906. He left £100 to the Charity Organisation Society.

Mr. Joseph William Edmund Dickson, solicitor, of Garstang, left £12,628, with net personalty £10,921.

Colonel John Arthur Hughes, C.B., C.B.E., V.D., D.L., retired solicitor, of Ensbury, Northbourne, Bournemouth, left £22,087, with net personalty £12,854.

Stock Exchange Prices of certain Trustee Securities.

Bank Rate (30th June, 1932) 2%. Next London Stock Exchange Settlement, Thursday, 11th August 1938.

	Div. Months.	Middle Price 27 July 1938.	Flat Interest Yield.	‡ Approximate Yield with redemption
ENGLISH GOVERNMENT SECURITIES			£ s. d.	£ s. d.
Consols 4% 1957 or after	FA	110½	3 12 5	3 5 0
Consols 2½%	JAJO	75⅝	3 6 0	—
War Loan 3½% 1952 or after ...	JD	102⅞	3 8 1	3 4 9
Funding 4% Loan 1960-90	MN	114¼	3 10 0	3 1 11
Funding 3% Loan 1959-69	AO	99	3 0 7	3 1 0
Funding 2¾% Loan 1952-57	JD	97	2 16 8	2 19 2
Funding 2½% Loan 1956-61	AO	91½	2 14 8	3 0 4
Victory 4% Loan Av. life 22 years ...	MS	112¾	3 10 11	3 3 8
Conversion 5% Loan 1944-64 ...	MN	114⅞	4 7 0	2 1 7
Conversion 3½% Loan 1961 or after	AO	103¾	3 7 6	3 5 3
Conversion 3% Loan 1948-53 ...	MS	101⅛xd	2 19 1	2 16 3
Conversion 2½% Loan 1944-49 ...	AO	100⅜	2 9 9	2 8 6
Local Loans 3% Stock 1912 or after	JAJO	88¾	3 7 7	—
Bank Stock	AO	349½	3 8 8	—
Guaranteed 2¾% Stock (Irish Land Act) 1933 or after	JJ	83½	3 5 10	—
Guaranteed 3% Stock (Irish Land Acts) 1939 or after	JJ	90	3 6 8	—
India 4½% 1950-55	MN	113	3 19 8	3 3 7
India 3½% 1931 or after	JAJO	94½	3 14 1	—
India 3% 1948 or after	JAJO	81½	3 13 7	—
Sudan 4½% 1939-73 Av. life 27 years	FA	109½	4 2 2	3 18 5
Sudan 4% 1974 Red. in part after 1950	MN	110	3 12 9	2 19 11
Tanganyika 4% Guaranteed 1951-71	FA	110	3 12 9	3 1 1
L.P.T.B. 4½% "T.F.A." Stock 1942-72	JJ	106	4 4 11	2 12 11
Lon. Elec. T. F. Corpn. 2½% 1950-55	FA	92	2 14 4	3 1 9
COLONIAL SECURITIES				
Australia (Commonw'th) 4% 1955-70	JJ	102	3 18 5	3 16 8
Australia (Commonw'th) 3% 1955-58	AO	89	3 7 5	3 15 11
*Canada 4% 1953-58	MS	109	3 13 5	3 4 7
*Natal 3% 1929-49	JJ	100	3 0 0	3 0 0
New South Wales 3½% 1930-50 ...	JJ	97	3 12 2	3 16 4
New Zealand 3% 1945	AO	94	3 3 10	4 1 6
Nigeria 4% 1963	AO	108	3 14 1	3 10 3
Queensland 3½% 1950-70	JJ	96	3 12 11	3 14 5
*South Africa 3½% 1953-73	JD	102	3 8 8	3 6 7
Victoria 3½% 1929-49	AO	98	3 11 5	3 14 5
CORPORATION STOCKS				
Birmingham 3% 1947 or after ...	JJ	86	3 9 9	—
Croydon 3% 1940-60	AO	96	3 2 6	3 5 2
*Essex County 3½% 1952-72 ...	JD	103	3 8 0	3 4 7
Leeds 3% 1927 or after	JJ	86	3 9 9	—
Liverpool 3½% Redeemable by agreement with holders or by purchase...	JAJO	101	3 9 4	—
London County 2½% Consolidated Stock after 1920 at option of Corp.	MJSD	73	3 8 6	—
London County 3% Consolidated Stock after 1920 at option of Corp.	MJSD	87	3 9 0	—
Manchester 3% 1941 or after ...	FA	86	3 9 9	—
Metropolitan Consd. 2½% 1920-49 ...	MJSD	99	2 10 6	2 12 2
Metropolitan Water Board 3% "A" 1963-2003	AO	90	3 6 8	3 7 8
Do. do. 3% "B" 1934-2003 ...	MS	92	3 5 3	3 6 0
Do. do. 3% "E" 1953-73 ...	JJ	96	3 2 6	3 3 10
*Middlesex County Council 4% 1952-72	MN	108	3 14 1	3 5 8
* Do. do. 4½% 1950-70	MN	113	3 19 8	3 3 7
Nottingham 3% Irredeemable ...	MN	86	3 9 9	—
Sheffield Corp. 3½% 1968	JJ	101½	3 9 0	3 8 5
ENGLISH RAILWAY DEBENTURE AND PREFERENCE STOCKS				
Gt. Western Rly. 4% Debenture ...	JJ	107½	3 14 5	—
Gt. Western Rly. 4½% Debenture ...	JJ	114½	3 18 7	—
Gt. Western Rly. 5% Debenture ...	JJ	128½	3 17 10	—
Gt. Western Rly. 5% Rent Charge ...	FA	126½	3 19 1	—
Gt. Western Rly. 5% Cons. Guaranteed	MA	125½	3 19 8	—
Gt. Western Rly. 5% Preference ...	MA	104½	4 15 8	—
Southern Rly. 4% Debenture ...	JJ	105½	3 15 10	—
Southern Rly. 4% Red. Deb. 1962-67	JJ	106½	3 15 1	3 11 9
Southern Rly. 5% Guaranteed ...	MA	125½	3 19 8	—
Southern Rly. 5% Preference ...	MA	101½	4 18 6	—

* Not available to Trustees over par.

‡ In the case of Stocks at a premium, the yield with redemption has been calculated at the earliest date; in the case of other Stocks, as at the latest date.